

LA BRITTON

COVER LETTER

TO: Amendment Section
Division of Corporations

SUBJECT: Medivo Inc.
Name of Corporation

DOCUMENT NUMBER: F17000002132

The enclosed Amendment and fee are submitted for filing.

Please return all correspondence concerning this matter to the following:

Xing Li

Name of Contact Person

Prognos Health Inc.

Firm/Company

85 Broad Street, 18th Floor

Address

New York, NY 10004

City/State and Zip Code

xli@prognos.ai

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

For further information concerning this matter, please call:

Xing Li

Name of Contact Person

at (917) 551-5695
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)

F17000002132

(Document number of corporation (if known))

FILED
2017 DEC -5 AM 10:38
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

1. Medivo Inc.

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

2. Delaware

(Incorporated under laws of)

3. 5/10/2017

(Date authorized to do business in Florida)

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

4. If the amendment changes the name of the corporation, when was the change effected under the laws of its jurisdiction of incorporation? 10/30/2017

5. Prognos Health Inc.

(Name of corporation after the amendment, adding suffix "corporation," "company," or "incorporated," or appropriate abbreviation, if not contained in new name of the corporation)

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

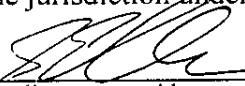
6. If the amendment changes the period of duration, indicate new period of duration.

(New duration)

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

(New jurisdiction)

8. 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)

Steve Chase

(Typed or printed name of person signing)

CFO

(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 IS A TRUE AND CORRECT COPY OF THE RESTATED CERTIFICATE OF "MEDIVO INC.", CHANGING ITS NAME FROM "MEDIVO INC." TO "PROGNOS HEALTH INC.", FILED IN THIS OFFICE ON THE THIRTY-FIRST DAY OF OCTOBER, A.D. 2017, AT 8:32 O'CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.




Jeffrey W. Bullock, Secretary of State

4774833 8100
SR# 20176873986

Authentication: 203494235
Date: 11-01-17

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

**FOURTH AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
MEDIVO INC.**

State of Delaware
Secretary of State
Division of Corporations
Delivered 08:32 PM 10/31/2017
FILED 08:32 PM 10/31/2017
SR 20176873986 - File Number 4774833

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

Medivo Inc., a corporation organized and existing under and by virtue of the provisions of the General Corporation Law of the State of Delaware (the "**General Corporation Law**"),

DOES HEREBY CERTIFY:

1. That the name of this corporation is Medivo Inc., and that this corporation was originally incorporated pursuant to the General Corporation Law on January 8, 2010 under the name Medivo Inc. This corporation filed an Amended and Restated Certificate of Incorporation on March 8, 2010, a Second Amended and Restated Certificate of Incorporation on November 15, 2011, and a Third Amended and Restated Certificate of Incorporation on June 11, 2013 (the "**Restated Certificate**"). A Certificate of Amendment was filed on November 18, 2013.

2. That the Board of Directors duly adopted resolutions by unanimous written consent in accordance with Sections 141, 242 and 245 of the General Corporation Law proposing to amend and restate the Restated Certificate, declaring said amendment and restatement to be advisable and in the best interests of this corporation and its stockholders, and authorizing the appropriate officers of this corporation to solicit the consent of the stockholders therefor.

3. The stockholders of this corporation holding the requisite number of shares of this corporation duly approved this Fourth Amended and Restated Certificate of Incorporation by written consent in accordance with Sections 228, 242 and 245 of the General Corporation Law.

4. Immediately upon filing this Fourth Amended and Restated Certificate of Incorporation, the text of this corporation's Restated Certificate is hereby amended and restated in its entirety to read as follows:

**ARTICLE I
NAME**

The name of this corporation is Prognos Health Inc. (the "**Corporation**").

**ARTICLE II
REGISTERED OFFICE AND AGENT**

The address of the registered office of the Corporation in the State of Delaware is 251 Little Falls Drive, Wilmington, DE 19808, New Castle County. The name of its registered agent at such address is Corporation Service Company.

ARTICLE III PURPOSE

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

ARTICLE IV CAPITAL STOCK

The total number of shares of all classes of stock which the Corporation shall have authority to issue is (i) 70,000,000 shares of Common Stock, \$0.001 par value per share ("Common Stock"), and (ii) 42,061,707 shares of Preferred Stock, \$0.001 par value per share ("Preferred Stock").

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

A. COMMON STOCK

1. General. The voting, dividend and liquidation rights of the holders of the Common Stock are subject to and qualified by the rights, powers, privileges and preferences of the holders of the Preferred Stock set forth herein.

2. Voting. The holders of the Common Stock are entitled to one vote for each share of Common Stock held at all meetings of stockholders (and written actions in lieu of meetings); 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 this Fourth Amended and Restated 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 this Fourth Amended and Restated Certificate of Incorporation or pursuant to the General Corporation Law. There shall be no cumulative voting. The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares thereof 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 Fourth Amended and Restated 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 General Corporation Law and without a separate vote of the holders of Common Stock.

3. Dividends. Subject to the prior rights of holders of all classes of capital stock at the time outstanding having prior rights as to dividends, the holders of the Common Stock shall be entitled to receive, when, as and if declared by the Board of Directors of the Corporation, out of any assets of the Corporation legally available therefor, any dividends as may be declared from time to time by the Board of Directors.

4. Liquidation. Upon the liquidation, dissolution or winding up of the Corporation, the assets of the Corporation available for distribution to its stockholders shall be distributed as provided in Section 2 of Part B of this Article IV.

B. PREFERRED STOCK

The authorized shares of Preferred Stock shall hereby be divided into three designated series, with (i) 11,876,048 shares of authorized Preferred Stock being designated as "Series A Preferred Stock," (ii) 16,649,125 shares of authorized Preferred Stock being designated as "Series B Preferred Stock," and (iii) 13,536,534 shares of authorized Preferred Stock being designated as "Series C Preferred Stock." As used herein, the term "Preferred Stock" used without reference to Series A Preferred Stock, Series B Preferred Stock or Series C Preferred Stock means the shares of Preferred Stock, without distinction as to series, except as otherwise expressly provided for herein. Shares of Series A Preferred Stock, Series B Preferred Stock and Series C Preferred Stock shall have the following rights, preferences, powers, privileges and restrictions, qualifications and limitations. Unless otherwise indicated, references to "Sections" in this Part B of this Article IV refer to sections of Part B of this Article IV.

1. Dividends.

1.1 Preferred Dividends.

1.1.1 Series C Preferred Stock. From and after the issuance thereof, the holders of each share of Series C Preferred Stock shall be entitled to receive, out of funds legally available therefor, cash dividends at an annual rate of 8% of the Series C Original Issue Price (as defined below, and as adjusted to reflect any stock splits, stock dividends, reorganizations, consolidations and similar changes hereafter effected) on each share of Series C Preferred Stock, prior and in preference to any declaration or payment of any dividend on the Series B Preferred Stock, Series A Preferred Stock, Common Stock or any other class or series of capital stock of the Corporation ranking junior to the Series C Preferred Stock (other than dividends on shares of Common Stock payable in shares of Common Stock). Such dividends shall be payable when and if declared by the Board of Directors and shall be non-cumulative. "Series C Original Issue Price" shall mean \$1.51442 per share for the Series C Preferred Stock (as adjusted to reflect any stock splits, stock dividends, reorganizations, consolidations and similar changes hereafter effected). In the event that the Board of Directors of the Corporation shall declare a dividend payable upon any of the then outstanding shares of capital stock of the Corporation (other than a stock dividend on the Common Stock payable solely in the form of additional shares of Common Stock), the holders of Series C Preferred Stock then outstanding shall be entitled to receive the amount of dividends per share to which they are entitled pursuant to the provisions of this Section 1.1.1 before any payment shall be made to the holders of the Series B Preferred Stock, the Series A Preferred Stock, the Common Stock, or any other class or series of stock ranking on liquidation junior to the Series C Preferred Stock by virtue of their ownership thereof.

1.1.2 Series B Preferred Stock and Series A Preferred Stock. From and after the issuance thereof, the holders of each share of Series A Preferred Stock and Series B Preferred Stock shall be entitled to receive, out of funds legally available therefor and

on a pari passu basis, cash dividends at an annual rate of 8% of the Series A Original Issue Price (on each share of Series A Preferred Stock) and 8% of the Series B Original Issue Price (on each share of Series B Preferred Stock) (each, as defined below, and as adjusted to reflect any stock splits, stock dividends, reorganizations, consolidations and similar changes hereafter effected) prior and in preference to any declaration or payment of any dividend on the Common Stock or any other class or series of capital stock of the Corporation ranking junior to the Series A Preferred Stock and Series B Preferred Stock (other than dividends on shares of Common Stock payable in shares of Common Stock). Such dividends shall be payable when and if declared by the Board of Directors and shall be non-cumulative. "Series A Original Issue Price" shall mean \$0.680 per share for the Series A Preferred Stock (as adjusted to reflect any stock splits, stock dividends, reorganizations, consolidations and similar changes hereafter effected). "Series B Original Issue Price" shall mean \$0.93047 per share for the Series B Preferred Stock (as adjusted to reflect any stock splits, stock dividends, reorganizations, consolidations and similar changes hereafter effected). In the event that the Board of Directors of the Corporation shall declare a dividend payable upon any of the then outstanding shares of capital stock of the Corporation (other than a stock dividend on the Common Stock payable solely in the form of additional shares of Common Stock), the holders of Series B Preferred Stock and the Series A Preferred Stock then outstanding shall be entitled to receive the amount of dividends per share to which they are entitled pursuant to the provisions of this Section 1.1.2 after payment in full has been made to holders of Series C Preferred Stock in accordance with Section 1.1.1, and before any payment shall be made to the holders of the Common Stock, or any other class or series of stock ranking on liquidation junior to the Series B Preferred Stock and Series A Preferred Stock by virtue of their ownership thereof.

1.1.3 The Series A Original Issue Price, Series B Original Issue Price and Series C Original Issue Price are sometimes referred to herein as the "Original Issue Price" for a specified series.

1.2 Other Dividends. After payment of all dividends on the Preferred Stock as set forth in Section 1.1 above, any additional dividends or distributions shall be distributed among all holders of Common Stock and Preferred Stock in proportion to the number of shares of Common Stock that would be held by each such holder of Preferred Stock if all shares of Preferred Stock were converted to Common Stock at the then effective conversion rate.

2. Liquidation, Dissolution or Winding Up; Certain Mergers, Consolidations and Asset Sales.

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

2.1.1 the holders of shares of Series C Preferred Stock then outstanding shall be entitled to be paid out of the assets of the Corporation available for distribution to its stockholders before any payment shall be made to the holders of Series B Preferred Stock, Series A Preferred Stock, Common Stock or any other class or series of capital stock of the Corporation ranking junior to the Series C Preferred Stock by reason of their

ownership thereof, an amount per share equal to the Series C Original Issue Price (for each share of Series C Preferred Stock), plus any dividends declared but unpaid thereon. If upon any such liquidation, dissolution or winding up of the Corporation or Deemed Liquidation Event, the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of shares of Series C Preferred Stock the full amount to which they shall be entitled under this Section 2.1.1, the holders of shares of Series C Preferred Stock shall share ratably in any distribution of the assets available for distribution in proportion to the respective amounts which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full; and

2.1.2 after payment of amounts required to be paid pursuant to Section 2.1.1 hereof, the holders of shares of Series A Preferred Stock and Series B Preferred Stock then outstanding shall be entitled to be paid out of the assets of the Corporation available for distribution to its stockholders before any payment shall be made to the holders of Common Stock or any other class or series of capital stock of the Corporation ranking junior to the Series A Preferred Stock and/or Series B Preferred Stock by reason of their ownership thereof, an amount per share equal to the Series A Original Issue Price (for each share of Series A Preferred Stock) and the Series B Original Issue Price (for each share of Series B Preferred Stock), plus in each case any dividends declared but unpaid thereon. If upon any such liquidation, dissolution or winding up of the Corporation or Deemed Liquidation Event, the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of shares of Series A Preferred Stock and Series B Preferred Stock the full amount to which they shall be entitled under this Section 2.1.2, the holders of shares of Series A Preferred Stock and Series B Preferred Stock shall share ratably in any distribution of the assets available for distribution in proportion to the respective amounts which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full.

2.2 Distribution of Remaining Assets. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation or Deemed Liquidation Event, after the payment of all preferential amounts required to be paid to the holders of shares of Preferred Stock, the remaining assets of the Corporation available for distribution to its stockholders shall be distributed among the holders of the shares of Preferred Stock and Common Stock, pro rata based on the number of shares held by each such holder, treating for this purpose all such securities as if they had been converted to Common Stock pursuant to the terms of this Fourth Amended and Restated Certificate of Incorporation immediately prior to such dissolution, liquidation or winding up of the Corporation or Deemed Liquidation Event, until (i) with respect to each share of Series A Preferred Stock such holders shall have received an amount per share of Series A Preferred Stock (including any amounts distributed pursuant to Section 2.1) equal to \$2.720 (as adjusted to reflect any stock splits, stock dividends, reorganizations, consolidations and similar changes hereafter effected), plus any dividends declared but unpaid thereon, (ii) with respect to each share of Series B Preferred Stock such holders shall have received an amount per share of Series B Preferred Stock (including any amounts distributed pursuant to Section 2.1) equal to \$3.722 (as adjusted to reflect any stock splits, stock dividends, reorganizations, consolidations and similar changes hereafter effected), plus any dividends declared but unpaid thereon, and (iii) with respect to each share of Series C Preferred Stock such holders shall have received an amount per share of Series C Preferred Stock

(including any amounts distributed pursuant to Section 2.1) equal to \$6.05768 (as adjusted to reflect any stock splits, stock dividends, reorganizations, consolidations and similar changes hereafter effected), plus any dividends declared but unpaid thereon. The aggregate amount which a holder of a share of Series A Preferred Stock is entitled to receive under Sections 2.1 and 2.2 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 Sections 2.1 and 2.2 is hereinafter referred to as the "**Series B Liquidation Amount.**" The aggregate amount which a holder of a share of Series C Preferred Stock is entitled to receive under Sections 2.1 and 2.2 is hereinafter referred to as the "**Series C Liquidation Amount.**" The Series A Liquidation Amount, the Series B Liquidation Amount and the Series C Liquidation Amount are sometimes referred to herein as the "Liquidation Amount" for a specified series.

2.3 Deemed Conversion. Notwithstanding the above, for purposes of determining the amount each holder of shares of a series of Preferred Stock is entitled to receive with respect to any voluntary or involuntary liquidation, dissolution or winding up of the Corporation or Deemed Liquidation Event, each such holder of shares of such series of Preferred Stock shall be deemed to have converted (regardless of whether such holder actually converted) such holder's shares of such series of Preferred Stock into shares of Common Stock immediately prior to such voluntary or involuntary liquidation, dissolution or winding up of the Corporation or Deemed Liquidation Event if, as a result of an actual conversion, such holder would receive, in the aggregate, an amount greater than the amount that would be distributed to such holder if such holder did not convert such holder's shares of such series of Preferred Stock into shares of Common Stock. If any such holder shall be deemed to have converted shares of a series of Preferred Stock into Common Stock pursuant to this Section 2.3, then such holder shall not be entitled to receive any distribution that would otherwise be made to holders of such series of Preferred Stock that have not converted (or have not been deemed to have converted) into shares of Common Stock.

2.4 Deemed Liquidation Events.

2.4.1 Definition. Each of the following events shall be considered a "**Deemed Liquidation Event**" unless the holders of (1) at least seventy-five percent (75%) of the outstanding shares of Preferred Stock, voting together as a single class on an as-converted basis (the "**Requisite Holders**"), and (2) at least a majority of the outstanding shares of Series C Preferred Stock, voting as a separate class (the "**Requisite Series C Holders**"), elect otherwise by written notice sent to the Corporation at least five days prior to the effective date of any such event:

- (a) a merger, consolidation or other transaction involving the Corporation in which
 - (i) the Corporation is a constituent party; or
 - (ii) a subsidiary of the Corporation is a constituent party and the Corporation issues shares of its capital stock pursuant to such merger or consolidation,

except any such merger, consolidation or other transaction involving the Corporation or a subsidiary in which the shares of capital stock of the Corporation outstanding immediately prior to such merger, consolidation or other transaction continue to represent, or are converted into or exchanged for shares of capital stock that represent, immediately following such merger, consolidation, or other transaction, a majority, by voting power, of the capital stock of (1) the surviving or resulting corporation or (2) if the surviving or resulting corporation is a wholly owned subsidiary of another corporation immediately following such merger or consolidation, the parent corporation of such surviving or resulting corporation in each case in substantially the same proportions (as determined by comparison to the other stockholders immediately prior to such merger or consolidation), and with all of their same respective rights, powers, preferences, privileges, restrictions, qualifications and limitations, as in effect immediately prior to such merger or consolidation;

(b) a transaction or series of related transactions to which the Corporation is a party in which in excess of fifty percent (50%) of the Corporation's voting power is transferred, except for any transaction or series of transactions principally for bona fide equity financing purposes in which cash is received by the Corporation or any successor or indebtedness of the Corporation is cancelled or converted or a combination thereof; or

(c) the sale, lease, transfer, exclusive license or other disposition, in a single transaction or series of related transactions, by the Corporation or any subsidiary of the Corporation of all or substantially all the assets or intellectual property of the Corporation and its subsidiaries taken as a whole or the sale or disposition (whether by merger or otherwise) of one or more subsidiaries of the Corporation if substantially all of the assets or intellectual property of the Corporation and its subsidiaries taken as a whole are held by such subsidiary or subsidiaries, except where such sale, lease, transfer, exclusive license or other disposition is to a wholly owned subsidiary of the Corporation.

2.4.2 Effecting a Deemed Liquidation Event.

(a) The Corporation shall not have the power to effect any transaction constituting a Deemed Liquidation Event unless the definitive agreements with respect to such transaction provide 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 Section 2, unless the Requisite Series C Holders and the Requisite Holders elect otherwise by written notice sent to the Corporation.

(b) In the event of a Deemed Liquidation Event not effected pursuant to Section 2.4.1(a) or (b), if the Corporation does not effect a dissolution of the Corporation under the General Corporation Law within 90 days after such Deemed Liquidation Event, then (i) the Corporation shall send a written notice to each holder of Preferred Stock no later than the 90th day after the Deemed Liquidation 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) if the Requisite Holders so request in a written instrument delivered to the Corporation not later than 120 days after such Deemed Liquidation Event, the Corporation shall use the consideration received by the

Corporation for such Deemed Liquidation Event (net of any retained liabilities associated with the assets sold or technology licensed, and net of any additional holdbacks reasonably required in connection with any wind down of the Corporation, each as determined in good faith by the Board of Directors of the Corporation), together with any other assets of the Corporation available for distribution to its stockholders, all to the extent permitted by Delaware law governing distributions to stockholders (the "Available Proceeds"), on the 150th day after such Deemed Liquidation Event, to redeem, first, all outstanding shares of Series C Preferred Stock at a price per share equal to the Series C Liquidation Amount, and second, all outstanding shares of Series A Preferred Stock and Series B Preferred Stock, at a price per share equal to the Series A Liquidation Amount (for each share of Series A Preferred Stock) or the Series B Liquidation Amount (for each share of Series B Preferred Stock). Notwithstanding the foregoing, in the event of a redemption pursuant to the preceding sentence, if the Available Proceeds are not sufficient to redeem all shares of Preferred Stock, the Corporation shall ratably redeem, first, each holder's shares of Series C Preferred Stock to the fullest extent of such Available Proceeds, and shall redeem the remaining shares (if any) as soon as it may lawfully do so under Delaware law governing distributions to stockholders, and second, following redemption of all shares of Series C Preferred Stock, shall ratably redeem, each holder's shares of Series A Preferred Stock and Series B Preferred Stock, on a *pari passu* basis, to the fullest extent of the remaining Available Proceeds, and shall redeem the remaining shares (if any) as soon as it may lawfully do so under Delaware law governing distributions to stockholders. The provisions of Section 6 shall apply, with such necessary changes in the details thereof as are necessitated by the context, to the redemption of the Preferred Stock pursuant to this Section 2.4.2(b). Prior to the distribution or redemption provided for in this Section 2.4.2(b), the Corporation shall not expend or dissipate the consideration received for such Deemed Liquidation Event, except to discharge expenses incurred in connection with such Deemed Liquidation Event and in the ordinary course of business or as otherwise legally required.

2.4.3 Amount Deemed Paid or Distributed. The amount deemed paid or distributed to the holders of capital stock of the Corporation upon any such merger, consolidation, sale, transfer, exclusive license, other disposition or redemption shall be the cash or the value of the property, rights or securities paid or distributed to such holders by the Corporation or the acquiring person, firm or other entity. In any Deemed Liquidation Event, if the proceeds of such Deemed Liquidation Event received by this Corporation or its stockholders are in a form other than cash, their value shall be determined as follows:

(a) Securities not subject to investment letter or other similar restrictions on free marketability covered by (b) below:

(i) If traded on a securities exchange, the value shall be deemed to be the average of the closing prices of the securities on such exchange over the twenty (20) trading-day period ending three (3) trading days prior to the closing of the Deemed Liquidation Event;

(ii) If actively traded over-the-counter, the value shall be deemed to be the average of the closing bid or sale prices (whichever is applicable) over the twenty (20) trading-day period ending three (3) trading days prior to the closing of the Deemed Liquidation Event; and

(iii) If there is no active public market, the value shall be the fair market value thereof, as determined in good faith by the Corporation's Board of Directors.

(b) The method of valuation of securities subject to investment letter or other restrictions on free marketability (other than restrictions arising solely by virtue of a stockholder's status as an affiliate or former affiliate) shall be to make an appropriate discount from the market value determined as above in (a)(i), (ii) or (iii) to reflect the approximate fair market value thereof, as determined in good faith by the Board of Directors of this Corporation.

(c) The method of valuation for any property received other than securities shall be the value thereof as determined in good faith by the Board of Directors of this Corporation.

(d) The foregoing methods for valuing non-cash consideration to be distributed in connection with a Deemed Liquidation Event shall, upon approval by this Corporation's Board of Directors and stockholders of the definitive agreements governing a Deemed Liquidation Event, be superseded by any determination of such value set forth in the definitive agreements governing such Deemed Liquidation Event.

2.4.4 Allocation of Escrow. In the event of a Deemed Liquidation Event, if any portion of the consideration payable to the Corporation or its stockholders is placed into escrow and/or is payable to the Corporation or its stockholders subject to contingencies (the "**Additional Consideration**"), the definitive agreements with respect to such transaction shall provide that (i) the portion of such consideration that is not Additional Consideration (the "**Initial Consideration**") shall be allocated among the holders of capital stock of the Corporation in accordance with Section 2 as if the Initial Consideration were the only consideration payable in connection with such Deemed Liquidation Event, and (ii) any additional consideration which becomes payable to the Corporation or its stockholders upon release from escrow or satisfaction of contingencies shall be allocated among the holders of capital stock of the Corporation in accordance with Section 2 after taking into account the previous payment of the Initial Consideration as part of the same transaction. For the purposes of this Subsection 2.4.4, consideration placed into escrow or retained as a holdback to be available for satisfaction of indemnification or similar obligations in connection with such Deemed Liquidation Event shall be deemed to be Additional Consideration.

3. Voting.

3.1 General. On any matter presented to the stockholders of the Corporation for their action or consideration at any meeting of stockholders of the Corporation (or by written consent of stockholders in lieu of meeting), each holder of outstanding shares of Preferred Stock shall be entitled to cast the number of votes equal to the number of whole shares of Common Stock into which the shares of Preferred Stock held by such holder are convertible immediately after the close of business on the record date for determining stockholders entitled to vote on such matter. Except as provided by law or by the other provisions of this Fourth Amended and Restated Certificate of Incorporation, the holders of Series A Preferred Stock, the

holders of Series B Preferred Stock, the holders of Series C Preferred Stock and the holders of Common Stock shall vote together as a single class and on an as converted to Common Stock basis, and all holders of Preferred Stock and Common Stock shall be entitled to notice of any stockholders meeting in accordance with the Bylaws of the Corporation.

3.2 Election of Directors. For so long as at least 2,954,305 shares of Series A Preferred Stock remain outstanding (as adjusted to reflect any stock splits, stock dividends, reorganizations, consolidations and similar changes hereafter effected), the holders of record of at least a majority of the shares of Series A Preferred Stock, exclusively and as a separate class, shall be entitled to elect two (2) directors of the Corporation (the "**Series A Preferred Directors**", one of which is designated the "**Series A Investor Director**" in accordance with the corporation's voting agreement of even date herewith). For so long as at least 4,140,786 shares of Series B Preferred Stock remain outstanding (as adjusted to reflect any stock splits, stock dividends, reorganizations, consolidations and similar changes hereafter effected), the holders of record of at least a majority of the shares of Series B Preferred Stock, exclusively and as a separate class, shall be entitled to elect one (1) director of the Corporation (the "**Series B Preferred Director**"). The holders of record of the shares of Common Stock, exclusively and as a separate class, shall be entitled to elect two (2) directors of the Corporation. Any director elected as provided in the preceding sentence may be removed without cause by, and only by, the affirmative vote of the holders of the shares of the class or series of capital stock entitled to elect such director or directors, given either at a special meeting of such stockholders duly called for that purpose or pursuant to a written consent of stockholders. If the holders of shares of Series A Preferred Stock, Series B Preferred Stock, the Preferred Stock and/or Common Stock, as the case may be, fail to elect a sufficient number of directors to fill all directorships for which they are entitled to elect directors, voting exclusively and as a separate class, pursuant to one of the first three sentences of this Section 3.2, then any directorship not so filled shall remain vacant until such time as the holders of the Series A Preferred Stock, Series B Preferred Stock, the Preferred Stock and/or Common Stock, as the case may be, elect a person to fill such directorship by vote or written consent in lieu of a meeting; and no such directorship may be filled by stockholders of the Corporation other than by the stockholders of the Corporation that are entitled to elect a person to fill such directorship, voting exclusively and as a separate class. The holders of record of the shares of Common Stock and of any other class or series of voting stock (including the Preferred Stock), exclusively and voting together as a single class, shall be entitled to elect the balance of the total number of directors of the Corporation. 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. Except as otherwise provided in this Section 3.2, a vacancy in any directorship that the holders of any class or series are entitled to fill shall be filled only by the affirmative vote or written consent in lieu of a meeting of the holders of such class or series or by any remaining director or directors elected by the holders of such class or series pursuant to this Section 3.2.

3.3 Preferred Stock Protective Provisions. At any time when at least 9,983,988 shares of Preferred Stock are outstanding (as adjusted to reflect any stock splits, stock dividends, reorganizations, consolidations and similar changes hereafter effected), the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or this

Fourth Amended and Restated Certificate of Incorporation) the written consent or affirmative vote of the Requisite Holders, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect.

3.3.1 liquidate, dissolve or wind-up the business and affairs of the Corporation, effect any Deemed Liquidation Event, effect any reorganization of the Corporation or similar transaction, or consent to any of the foregoing; provided, however, that no approval or consent to a Deemed Liquidation Event shall be required under this Section 3.3.1 if the per share amount that the holders of Series C Preferred Stock would receive upon consummation of such transaction pursuant to Sections 2.1 and 2.2 would be more than \$4.54326 per share (as adjusted for stock splits, stock dividends, combinations and the like);

3.3.2 amend, alter, waive or repeal any provision of this Fourth Amended and Restated Certificate of Incorporation or the Bylaws of the Corporation in a manner that (i) increases the number of authorized shares of any series of Preferred Stock, or (ii) adversely affects any series of Preferred Stock, or otherwise take any action that alters or changes, the powers, preferences, privileges or rights, or the restrictions, qualifications or limitations, of any series of Preferred Stock;

3.3.3 create, or authorize the creation of, or issue or obligate itself to issue shares of, any additional class or series of capital stock (or any security exercisable therefor or convertible thereinto), or reclassify, alter or amend any existing security of the Corporation, unless the same ranks or will rank junior to each series of Preferred Stock with respect to all of the powers, preferences, privileges or rights of the Preferred Stock;

3.3.4 purchase or redeem (or permit any subsidiary to purchase or redeem) or pay or declare any dividend or make any distribution on, any shares of capital stock of the Corporation other than (i) redemptions of, or dividends or distributions on, the Preferred Stock as provided herein, (ii) dividends or other distributions payable on the Common Stock solely in the form of additional shares of Common Stock and (iii) repurchases of capital stock from former employees, officers, directors, consultants or other persons who performed services for the Corporation or any subsidiary in connection with the cessation of such employment or service, or by the exercise by the Corporation of contractual rights of first refusal over such capital stock pursuant to a contract or option plan approved by the Board of Directors, in each case at the lower of the original purchase price or the then-current fair market value thereof;

3.3.5 increase or decrease the authorized number of shares of capital stock of the Corporation;

3.3.6 increase the aggregate number of shares of the Corporation's capital stock reserved for issuance under any of equity incentive or similar plan of the Corporation;

3.3.7 increase or decrease the authorized number of directors constituting the Board of Directors;

3.3.8 incur indebtedness for borrowed money of the Corporation in the aggregate amount, at any one time outstanding, in excess of \$1,500,000, unless such indebtedness was approved by the Board of Directors in the Corporation's operating plan or otherwise;

3.3.9 authorize any transaction that results in the creation of a security interest in the assets or intellectual property of the Corporation, other than mechanics, materialmen and equipment liens granted in the ordinary course of business; or

3.3.10 permit any subsidiary of the Corporation to take any of the actions set forth in this Section 3.3.

4. Optional Conversion.

The holders of the Preferred Stock shall have conversion rights as follows (the "Conversion Rights"):

4.1 Right to Convert.

4.1.1 Conversion Ratio. Each share of Series A Preferred Stock shall be convertible, at the option of the holder thereof, at any time and from time to time, and without the payment of additional consideration by the holder thereof, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing the Series A Original Issue Price by the Series A Conversion Price (as defined below) in effect at the time of conversion. Each share of Series B Preferred Stock shall be convertible, at the option of the holder thereof, at any time and from time to time, and without the payment of additional consideration by the holder thereof, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing the Series B Original Issue Price by the Series B Conversion Price (as defined below) in effect at the time of conversion. Each share of Series C Preferred Stock shall be convertible, at the option of the holder thereof, at any time and from time to time, and without the payment of additional consideration by the holder thereof, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing the Series C Original Issue Price by the Series C Conversion Price (as defined below) in effect at the time of conversion. The "Series A Conversion Price" shall initially be equal to \$0.680 per share of Series A Preferred Stock. The "Series B Conversion Price" shall initially be equal to \$0.93047 per share of Series B Preferred Stock. The "Series C Conversion Price" shall initially be equal to \$1.51442 per share of Series C Preferred Stock. The Series A Conversion Price, the Series B Conversion Price and the Series C Conversion Price are sometimes referred to herein as the "Conversion Price" for the specified series of Preferred Stock. The initial Conversion Price for each series of Preferred Stock and the rate at which shares of each series of Preferred Stock may be converted into shares of Common Stock, shall be subject to adjustment as provided below.

4.1.2 Termination of Conversion Rights. In the event of a notice of redemption of any shares of Preferred Stock pursuant to Section 6, the Conversion Rights of the shares designated for redemption shall terminate at the close of business on the last full day preceding the date fixed for redemption, unless the redemption price is not fully paid on

such redemption date, in which case the Conversion Rights for such shares shall continue until such price is paid in full. In the event of a liquidation, dissolution or winding up of the Corporation or a Deemed Liquidation Event, the Conversion Rights shall terminate at the close of business on the last full day preceding the date fixed for the payment of any such amounts distributable on such event to the holders of Preferred Stock.

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

4.3 Mechanics of Conversion.

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

4.3.2 Reservation of Shares. The Corporation shall at all times when the Preferred Stock shall be outstanding, reserve and keep available out of its authorized but unissued capital stock, for the purpose of effecting the conversion of the Preferred Stock, such number of its duly authorized shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of Preferred Stock; and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Preferred Stock, the Corporation shall take such corporate action as may be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes, including, without limitation, engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to this Fourth Amended and Restated Certificate of Incorporation. Before taking any action which would cause an adjustment reducing the applicable Conversion Price of a series of Preferred Stock below the then par value of the shares of Common Stock issuable upon conversion of the Preferred Stock, the Corporation will take any corporate action which 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 applicable adjusted Conversion Price.

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

4.3.4 No Further Adjustment. Upon any such conversion, no adjustment to the applicable Conversion Price shall be made for any declared but unpaid dividends on the Preferred Stock surrendered for conversion or on the Common Stock delivered upon conversion.

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

4.4 Adjustments to Conversion Price for Diluting Issues.

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

(a) “**Option**” shall mean rights, options or warrants to subscribe for, purchase or otherwise acquire Common Stock or Convertible Securities.

(b) “**Series C Original Issue Date**” shall mean the date on which the first share of Series C Preferred Stock was issued by the Corporation to any stockholder.

(c) “**Convertible Securities**” shall mean any evidences of indebtedness, shares or other securities directly or indirectly convertible into or exchangeable for Common Stock, but excluding Options.

(d) “**Additional Shares of Common Stock**” shall mean all shares of Common Stock issued (or, pursuant to Section 4.4.3 below, deemed to be issued) by the Corporation after the Series C Original Issue Date, other than (1) the following shares of Common Stock and (2) shares of Common Stock deemed issued pursuant to the following Options and Convertible Securities (clauses (1) and (2), collectively, “**Exempted Securities**”):

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

(ii) shares of Common Stock, Options or Convertible Securities issued by reason of a dividend, stock split, split-up or other distribution on shares of Common Stock that is approved by the Board of Directors of the Corporation, including the approval of the Series B Preferred Director and the Series A Investor Director, and covered by Section 4.5, 4.6, 4.7 or 4.8 below;

(iii) shares of Common Stock or Options issued to employees or directors of, or consultants or advisors to, the Corporation or any of its subsidiaries pursuant to an equity incentive or similar plan, agreement or arrangement approved by the Board of Directors of the Corporation, including the approval of the Series B Preferred Director and the Series A Investor Director;

(iv) shares of Common Stock or Convertible Securities actually issued upon the exercise of Options

or shares of Common Stock actually issued upon the conversion or exchange of Convertible Securities, in each case provided such issuance is pursuant to the terms of such Option or Convertible Security and provided, further, that such Option or Convertible Security is outstanding as of the Series C Original Issue Date;

(v) shares of Common Stock, Options or Convertible Securities issued or issuable in connection with a bona fide business acquisition by the Corporation or in an underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended (the "Securities Act"), approved by the Board of Directors, including the approval of the Series B Preferred Director and the Series A Investor Director;

(vi) shares of Common Stock or Convertible Securities issued or issuable in connection with a commercial lending transaction that is primarily for non-equity financing purposes and is approved by the Board of Directors, including the approval of the Series B Preferred Director and the Series A Investor Director; or

(vii) shares of Common Stock, Options or Convertible Securities that the Requisite Holders elect in writing to exclude from the definition of "Exempted Securities."

4.4.2 No Adjustment of Conversion Price. No adjustment in the Series A Conversion Price or the Series B Conversion Price or the Series C Conversion Price, as applicable, shall be made as the result of the issuance or deemed issuance of Additional Shares of Common Stock if (i) the consideration per share (determined pursuant to Section 4.4.5) for such Additional Shares of Common Stock issued or deemed to be issued by the Corporation is equal to or greater than the Series A Conversion Price, the Series B Conversion Price or the Series C Conversion Price, as applicable, in effect immediately prior to such issuance or deemed issuance of such Additional Shares of Common Stock, or (ii) prior to such issuance or deemed issuance, the Corporation receives written notice from (A) the Requisite Holders, and (B) for the Series C Preferred Stock, the Requisite Series C Holders, agreeing that no such adjustment shall be made as the result of the issuance or deemed issuance of such Additional Shares of Common Stock. For the avoidance of doubt, if the Requisite Holders waive adjustment of the Conversion Price, but the Requisite Series C Holders do not, then adjustment shall be made to the Series C Conversion Price only, and no adjustment shall be made to the Series A Conversion Price or the Series B Conversion Price. If the Requisite Holders do not waive adjustment of the Conversion

Price, then no adjustment shall be made to any Conversion Price, regardless of whether the Requisite Series C Holders waive adjustment to the Series C Conversion Price.

4.4.3 Deemed Issue of Additional Shares of Common Stock.

(a) If the Corporation at any time or from time to time after the Series C Original Issue Date shall issue any Options or Convertible Securities (excluding Options or Convertible Securities which are themselves Exempted Securities) or shall fix a record date for the determination of holders of any class of securities entitled to receive any such Options or Convertible Securities, then the maximum number of shares of Common Stock (as set forth in the instrument relating thereto, assuming the satisfaction of any conditions to exercisability, convertibility or exchangeability but without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or, in the case of Convertible Securities and Options therefor, the conversion or exchange of such Convertible Securities, shall be deemed to be Additional Shares of Common Stock issued as of the time of such issue or, in case such a record date shall have been fixed, as of the close of business on such record date.

(b) If the terms of any Option or Convertible Security, the issuance of which resulted in an adjustment to the Conversion Price for a series of Preferred Stock pursuant to the terms of Section 4.4.4, are revised as a result of an amendment to such terms or any other adjustment pursuant to the provisions of such Option or Convertible Security (but excluding automatic adjustments to such terms pursuant to anti-dilution or similar provisions of such Option or Convertible Security) to provide for either (i) any increase or decrease in the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any such Option or Convertible Security or (ii) any increase or decrease in the consideration payable to the Corporation upon such exercise, conversion and/or exchange, then, effective upon such increase or decrease becoming effective, the applicable Conversion Price computed upon the original issue of such Option or Convertible Security (or upon the occurrence of a record date with respect thereto) shall be readjusted to such Conversion Price, as would have obtained had such revised terms been in effect upon the original date of issuance of such Option or Convertible Security. Notwithstanding the foregoing, no readjustment pursuant to this clause (b) shall have the effect of increasing the Conversion Price for a series of Preferred Stock to an amount which exceeds the lower of (A) the applicable Conversion Price in effect immediately prior to the original adjustment made as a result of the issuance of such Option or Convertible Security, or (B) the Conversion Price for such series of Preferred Stock that would have resulted from any issuances of Additional Shares of Common Stock (other than deemed issuances of Additional Shares of Common Stock as a result of the issuance of such Option or Convertible Security) between the original adjustment date and such readjustment date.

(c) If the terms of any Option or Convertible Security (excluding Options or Convertible Securities which are themselves Exempted Securities), the issuance of which did not result in an adjustment to the Conversion Price for a series of Preferred Stock pursuant to the terms of Section 4.4.4 (either because the consideration per share (determined pursuant to Section 4.4.5) of the Additional Shares of Common Stock subject thereto was equal to or greater than the Conversion Price for such series of Preferred Stock then in effect, or because such Option or Convertible Security was issued before the Series

C Original Issue Date), are revised after the Series C Original Issue Date as a result of an amendment to such terms or any other adjustment pursuant to the provisions of such Option or Convertible Security (but excluding automatic adjustments to such terms pursuant to anti-dilution or similar provisions of such Option or Convertible Security) to provide for either (i) any increase in the number of shares of Common Stock issuable upon the exercise, conversion or exchange of any such Option or Convertible Security or (ii) any decrease in the consideration payable to the Corporation upon such exercise, conversion or exchange, then such Option or Convertible Security, as so amended or adjusted, and the Additional Shares of Common Stock subject thereto (determined in the manner provided in Section 4.4.3(a)), shall be deemed to have been issued effective upon such increase or decrease becoming effective.

(d) Upon the expiration or termination of any unexercised Option or unconverted or unexchanged Convertible Security (or portion thereof) which resulted (either upon its original issuance or upon a revision of its terms) in an adjustment to the Conversion Price for a series of Preferred Stock pursuant to the terms of Section 4.4.4, the adjusted Conversion Price for such series of Preferred Stock shall be readjusted to such Conversion Price as would have obtained had such Option or Convertible Security (or portion thereof) never been issued.

(e) If the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any Option or Convertible Security, or the consideration payable to the Corporation upon such exercise, conversion and/or exchange, is calculable at the time such Option or Convertible Security is issued or amended but is subject to adjustment based upon subsequent events, any adjustment to the Conversion Price for a series of Preferred Stock provided for in this Section 4.4.3 shall be effected at the time of such issuance or amendment based on such number of shares or amount of consideration without regard to any provisions for subsequent adjustments (and any subsequent adjustments shall be treated as provided in clauses (b) and (c) of this Section 4.4.3). If the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any Option or Convertible Security, or the consideration payable to the Corporation upon such exercise, conversion and/or exchange, cannot be calculated at all at the time such Option or Convertible Security is issued or amended, any adjustment to the Conversion Price for such series of Preferred Stock that would result under the terms of this Section 4.4.3 at the time of such issuance or amendment shall instead be effected at the time such number of shares and/or amount of consideration is first calculable (even if subject to subsequent adjustments), assuming for purposes of calculating such adjustment to such Conversion Price that such issuance or amendment took place at the time such calculation can first be made.

4.4.4 Adjustment of Conversion Price Upon Issuance of Additional Shares of Common Stock. In the event the Corporation shall at any time after the Series C Original Issue Date issue Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Section 4.4.3), without consideration or for a consideration per share less than the applicable Conversion Price for a series of Preferred Stock in effect immediately prior to such issue, then such Conversion Price shall be reduced, concurrently with such issue, to a price (calculated to the nearest one-hundredth of a cent) determined in accordance with the following formula:

$$CP_2 = CP_1 * (A + B) \div (A + C).$$

For purposes of the foregoing formula, the following definitions shall apply:

(a) "CP₂" shall mean the Conversion Price for such series of Preferred Stock in effect immediately after such issue of Additional Shares of Common Stock;

(b) "CP₁" shall mean the Conversion Price for such series of Preferred Stock in effect immediately prior to such issue of Additional Shares of Common Stock;

(c) "A" shall mean the number of shares of Common Stock outstanding immediately prior to such issue of Additional Shares of Common Stock (treating for this purpose as outstanding all shares of Common Stock issuable upon exercise of Options outstanding immediately prior to such issue or upon conversion or exchange of Convertible Securities (including the Preferred Stock) outstanding (assuming exercise of any outstanding Options therefor) immediately prior to such issue);

(d) "B" shall mean the number of shares of Common Stock that would have been issued if such Additional Shares of Common Stock had been issued at a price per share equal to CP₁ (determined by dividing the aggregate consideration received by the Corporation in respect of such issue by CP₁); and

(e) "C" shall mean the number of such Additional Shares of Common Stock issued in such transaction.

4.4.5 Determination of Consideration. For purposes of this Section 4.4, the consideration received by the Corporation for the issue of any Additional Shares of Common Stock shall be computed as follows:

(a) Cash and Property: Such consideration shall:

(i) insofar as it consists of cash, be computed at the aggregate amount of cash received by the Corporation, excluding amounts paid or payable for accrued interest;

(ii) insofar as it consists of property other than cash, be computed at the fair market value thereof at the time of such issue, as determined in good faith by the Board of Directors of the Corporation, including the Series B Preferred Director and the Series A Investor Director; and

(iii) in the event Additional Shares of Common Stock are issued together with other shares or securities or other assets of the Corporation for

consideration which covers both, be the proportion of such consideration so received, computed as provided in clauses (i) and (ii) above, as determined in good faith by the Board of Directors of the Corporation, including the Series B Preferred Director and the Series A Investor Director.

(b) Options and Convertible Securities. The consideration per share received by the Corporation for Additional Shares of Common Stock deemed to have been issued pursuant to Section 4.4.3, relating to Options and Convertible Securities, shall be determined by dividing:

(i) the total amount, if any, received or receivable by the Corporation as consideration for the issue of such Options or Convertible Securities, plus the minimum aggregate amount of additional consideration (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such consideration) payable to the Corporation upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities, by

(ii) the maximum number of shares of Common Stock (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities.

4.4.6 Multiple Closing Dates. In the event the Corporation shall issue on more than one date Additional Shares of Common Stock that are a part of one transaction or a series of related transactions and that would result in an adjustment to the Conversion Price for a series of Preferred Stock pursuant to the terms of Section 4.4.4, and such issuance dates occur within a period of no more than 90 days from the first such issuance to the final such issuance, then, upon the final such issuance, the Conversion Price for a series of Preferred Stock shall be readjusted to give effect to all such issuances as if they occurred on the date of the first such issuance (and without giving effect to any additional adjustments as a result of any such subsequent issuances within such period).

4.5 Adjustment for Stock Splits and Combinations. If the Corporation shall at any time or from time to time after the Series C Original Issue Date effect a subdivision of the outstanding Common Stock, the Conversion Price for each series of Preferred Stock in effect immediately before that subdivision shall be proportionately decreased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be increased in proportion to such increase in the aggregate number of shares of Common Stock outstanding. If the Corporation shall at any time or from time to time after the Series C Original Issue Date combine the outstanding shares of Common Stock, the Conversion Price for each series of Preferred Stock in effect immediately before the combination shall be proportionately increased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be decreased in proportion to such decrease in the aggregate number of shares of Common Stock outstanding. Any adjustment under this Section 4.5 shall become effective at the close of business on the date the subdivision or combination becomes effective.

4.6 Adjustment for Certain Dividends and Distributions. In the event the Corporation at any time or from time to time after the Series C Original Issue Date shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable on the Common Stock in additional shares of Common Stock, then and in each such event the Conversion Price for each series of Preferred Stock in effect immediately before such event shall be decreased as of the time of such issuance or, in the event such a record date shall have been fixed, as of the close of business on such record date, by multiplying the Conversion Price for such series of Preferred Stock then in effect by a fraction:

(1) the numerator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date; and

(2) the denominator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date plus the number of shares of Common Stock issuable in payment of such dividend or distribution.

Notwithstanding the foregoing, (a) if such record date shall have been fixed and such dividend is not fully paid or if such distribution is not fully made on the date fixed therefor, the Conversion Price for each series of Preferred Stock shall be recomputed accordingly as of the close of business on such record date and thereafter such Conversion Price shall be adjusted pursuant to this Section 4.6 as of the time of actual payment of such dividends or distributions; and (b) that no such adjustment shall be made if the holders of Preferred Stock simultaneously receive a dividend or other distribution of shares of Common Stock in a number equal to the number of shares of Common Stock as they would have received if all outstanding shares of Preferred Stock had been converted into Common Stock on the date of such event.

4.7 Adjustments for Other Dividends and Distributions. In the event the Corporation at any time or from time to time after the Series C Original Issue Date shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable in securities of the Corporation (other

than a distribution of shares of Common Stock in respect of outstanding shares of Common Stock) or in other property and the provisions of Section 1 do not apply to such dividend or distribution, then and in each such event the holders of Preferred Stock shall receive, simultaneously with the distribution to the holders of Common Stock, a dividend or other distribution of such securities or other property in an amount equal to the amount of such securities or other property as they would have received if all outstanding shares of Preferred Stock had been converted into Common Stock on the date of such event.

4.8 Adjustment for Merger or Reorganization, etc. Subject to the provisions of Section 2.4, if there shall occur any reorganization, recapitalization, reclassification, consolidation or merger involving the Corporation in which the Common Stock (but not the Preferred Stock) is converted into or exchanged for securities, cash or other property (other than a transaction covered by Sections 4.5, 4.6 or 4.7), then, following any such reorganization, recapitalization, reclassification, consolidation or merger, each share of Preferred Stock shall thereafter be convertible in lieu of the Common Stock into which it was convertible prior to such event into the kind and amount of securities, cash or other property which a holder of the number of shares of Common Stock of the Corporation issuable upon conversion of one share of Preferred Stock immediately prior to such reorganization, recapitalization, reclassification, consolidation or merger would have been entitled to receive pursuant to such transaction; and, in such case, appropriate adjustment (as determined in good faith by the Board of Directors of the Corporation) shall be made in the application of the provisions in this Section 4 with respect to the rights and interests thereafter of the holders of the Preferred Stock, to the end that the provisions set forth in this Section 4 (including provisions with respect to changes in and other adjustments of the Series A Conversion Price, Series B Conversion Price and Series C Conversion Price) shall thereafter be applicable, as nearly as reasonably may be, in relation to any securities or other property thereafter deliverable upon the conversion of the Preferred Stock. For the avoidance of doubt, nothing in this Section 4.8 shall be construed as preventing the holders of Preferred Stock from seeking any appraisal rights to which they are otherwise entitled under the General Corporation Law in connection with a merger triggering an adjustment hereunder, nor shall this Section 4.8 be deemed conclusive evidence of the fair value of the shares of Preferred Stock in any such appraisal proceeding.

4.9 Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the Conversion Price for a series of Preferred Stock pursuant to this Section 4, the Corporation at its expense shall, as promptly as reasonably practicable but in any event not later than 10 days thereafter, compute such adjustment or readjustment in accordance with the terms hereof and furnish to each holder of such series of Preferred Stock a certificate setting forth such adjustment or readjustment (including the kind and amount of securities, cash or other property into which such series of the Preferred Stock is convertible) and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, as promptly as reasonably practicable after the written request at any time of any holder of shares of a series of Preferred Stock (but in any event not later than 10 days thereafter), furnish or cause to be furnished to such holder a certificate setting forth (i) the Conversion Price then in effect and (ii) the number of shares of Common Stock and the amount, if any, of other securities, cash or property which then would be received upon the conversion of such series of Preferred Stock.

4.10 Notice of Record Date. In the event:

(a) the Corporation shall take a record of the holders of its Common Stock (or other capital stock or securities at the time issuable upon conversion of the Preferred Stock) for the purpose of entitling or enabling them to receive any dividend or other distribution, or to receive any right to subscribe for or purchase any shares of capital stock of any class or any other securities, or to receive any other security; or

(b) of any capital reorganization of the Corporation, any reclassification of the Common Stock of the Corporation, any other recapitalization, consolidation or merger involving the Corporation, or any sale, lease, transfer, exclusive license or other disposition of all or substantially all the assets of the Corporation, including any Deemed Liquidation Event; or

(c) of the voluntary or involuntary dissolution, liquidation or winding-up of the Corporation,

then, and in each such case, the Corporation will send or cause to be sent to the holders of the Preferred Stock a notice specifying, as the case may be, (i) the record date for such dividend, distribution or right, and the amount and character of such dividend, distribution or right, or (ii) the effective date on which such reorganization, reclassification, recapitalization, consolidation, merger, sale, lease, transfer, exclusive license, disposition, dissolution, liquidation or winding-up is proposed to take place, and the time, if any is to be fixed, as of which the holders of record of Common Stock (or such other capital stock or securities at the time issuable upon the conversion of the Preferred Stock) shall be entitled to exchange their shares of Common Stock (or such other capital stock or securities) for securities or other property deliverable upon such reorganization, reclassification, recapitalization, consolidation, merger, sale, lease, transfer, exclusive license, disposition, dissolution, liquidation or winding-up, and the amount per share and character of such exchange applicable to the Preferred Stock and the Common Stock. Such notice shall be sent at least 10 days prior to the record date or effective date for the event specified in such notice.

5. Mandatory Conversion.

5.1 Trigger Events. Upon either (a) the closing of the sale of shares of the Corporation's Common Stock to the public at a price of at least \$4.54326 per share (as adjusted to reflect any stock splits, stock dividends, reorganizations, consolidations and similar changes hereafter effected) in a firm-commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, resulting in at least \$75,000,000 (before deduction of underwriting discounts, commissions and expenses) to the Corporation (a "**Qualified Offering**") or (b) the date and time, or the occurrence of an event, specified by vote or written consent of, (i) the Requisite Holders, and (ii) for the Series C Preferred Stock only, the Requisite Series C Holders (the time of such closing, or the date and time specified or the time of the event specified in such vote or written consent, the "**Mandatory Conversion Time**"), (1) all outstanding shares of Series A Preferred Stock and Series B Preferred Stock, and/or the Series C Preferred Stock, as applicable, shall automatically be

converted into shares of Common Stock, at the then effective conversion rate and (2) such shares of Preferred Stock may not be reissued by the Corporation.

5.2 Procedural Requirements. All holders of record of shares of Preferred Stock shall be sent written notice of the Mandatory Conversion Time and the place designated for mandatory conversion of all such shares of Preferred Stock pursuant to this Section 5. Such notice need not be sent in advance of the occurrence of the Mandatory Conversion Time. Upon receipt of such notice, each holder of shares of Preferred Stock shall surrender such holder's certificate or certificates for all such shares (or, if such holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate) to the Corporation at the place designated in such notice. If so required by the Corporation, certificates surrendered for conversion shall be endorsed or accompanied by written instrument or instruments of transfer, in form satisfactory to the Corporation, duly executed by the registered holder or by such holder's attorney duly authorized in writing. All rights with respect to the Preferred Stock converted pursuant to Section 5.1, including the rights, if any, to receive notices and vote (other than as a holder of Common Stock), will terminate at the Mandatory Conversion Time (notwithstanding the failure of the holder or holders thereof to surrender the certificates at or prior to such time), except only the rights of the holders thereof, upon surrender of their certificate or certificates (or lost certificate affidavit and agreement) therefor, to receive the items provided for in the next sentence of this Section 5.2. As soon as practicable after the Mandatory Conversion Time and the surrender of the certificate or certificates (or lost certificate affidavit and agreement) for Preferred Stock, the Corporation shall issue and deliver to such holder, or to such holder's nominees, a certificate or certificates for the number of full shares of Common Stock issuable on such conversion in accordance with the provisions hereof, together with cash as provided in Section 4.2 in lieu of any fraction of a share of Common Stock otherwise issuable upon such conversion and the payment of any declared but unpaid dividends on the shares of Preferred Stock converted. Such converted Preferred Stock shall be retired and cancelled and may not be reissued as shares of such series, and the Corporation may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of Preferred Stock accordingly.

6. Redemption.

6.1 General. At any time after November 1, 2022, but within 60 days after the receipt by the Corporation of a written request (the "**Redemption Request**") from the Requisite Holders that all of the then outstanding shares of Preferred Stock be redeemed (the "**Initial Redemption Date**"), the Corporation shall, to the fullest extent it may lawfully do so under Delaware law governing distributions to stockholders, redeem in three annual installments (beginning on the Initial Redemption Date and on the first and second anniversary thereof (the date of each such installment shall be referred to as a "**Redemption Date**")) the then outstanding shares of Preferred Stock at a price equal to the applicable Original Issue Price per share for each outstanding share of Preferred Stock, plus all declared but unpaid dividends thereon (each, the "**Redemption Price**"). Upon receipt of a Redemption Request, the Corporation shall apply all of its assets to any such redemption, and to no other corporate purpose, to the fullest extent it may lawfully do under Delaware law governing distributions to stockholders. On each Redemption

Date, the Corporation shall redeem, on a pro rata basis in accordance with the number of shares of Preferred Stock owned by each holder, that number of outstanding shares of Preferred Stock determined by dividing (i) the total number of shares of Preferred Stock outstanding immediately prior to such Redemption Date by (ii) the number of remaining Redemption Dates (including the Redemption Date to which such calculation applies). If the Corporation does not have sufficient funds legally available to redeem on any Redemption Date all shares of Preferred Stock and of any other class or series of stock to be redeemed on such Redemption Date, the Corporation shall redeem first a pro rata portion of each holder's shares of Series C Preferred Stock to be redeemed on such Redemption Date out of funds legally available therefor, based on the respective amounts which would otherwise be payable in respect of such shares of Series C Preferred Stock on such Redemption Date if the legally available funds were sufficient to redeem all such shares and second, after the required installment of shares of Series C Preferred Stock due on such Redemption Date or any prior Redemption Date has been redeemed in full, a pro rata portion of each holder's shares Series A Preferred Stock and Series B Preferred Stock to be redeemed on such Redemption Date out of funds legally available therefor, based on the respective amounts which would otherwise be payable in respect of such shares of Series A Preferred Stock and Series B Preferred Stock on such Redemption Date if the legally available funds were sufficient to redeem all such shares. If on any Redemption Date Delaware law governing distributions to stockholders prevents the Corporation from redeeming all shares of Preferred Stock to be redeemed, the Corporation shall ratably redeem the maximum number of shares that it may redeem consistent with such law, and shall redeem the remaining shares as soon as it may lawfully do so under such law. The shares of Preferred Stock not redeemed shall remain outstanding and entitled to all the rights and preferences provided in this Fourth Amended and Restated Certificate of Incorporation. At any time thereafter when additional funds of the Corporation are legally available for the redemption of shares of Preferred Stock, such funds will immediately be used to redeem the balance of the shares that the Corporation has become obliged to redeem on any Redemption Date but that it has not redeemed.

6.2 Redemption Notice. The Corporation shall send written notice of the mandatory redemption (the "**Redemption Notice**") to each holder of record of Preferred Stock not less than 30 days prior to each Redemption Date. Each Redemption Notice shall state:

(a) the number of shares of Preferred Stock held by the holder that the Corporation shall redeem on the Redemption Date specified in the Redemption Notice;

(b) the Redemption Date and the Redemption Price;

(c) the date upon which the holder's right to convert such shares terminates (as determined in accordance with Section 4.1); and

(d) that the holder is to surrender to the Corporation, in the manner and at the place designated, such holder's certificate or certificates representing the shares of Preferred Stock to be redeemed.

6.3 Surrender of Certificates; Payment. On or before the applicable Redemption Date, each holder of shares of Preferred Stock to be redeemed on such Redemption

Date, unless such holder has exercised such holder's right to convert such shares as provided in Section 4, shall surrender the certificate or certificates representing such shares (or, if such registered holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate) to the Corporation, in the manner and at the place designated in the Redemption Notice, and thereupon the Redemption Price for such shares shall be payable to the order of the holder whose name appears on such certificate or certificates as the owner thereof. In the event less than all of the shares of Preferred Stock represented by a certificate are redeemed, a new certificate representing the unredeemed shares of Preferred Stock shall promptly be issued to such holder.

6.4 Rights Subsequent to Redemption. If the Redemption Notice shall have been duly given, and if on the applicable Redemption Date the Redemption Price payable upon redemption of the shares of Preferred Stock to be redeemed on such Redemption Date is paid or tendered for payment or deposited with an independent payment agent so as to be available therefor in a timely manner, then notwithstanding that the certificates evidencing any of the shares of Preferred Stock so called for redemption shall not have been surrendered, dividends with respect to such shares of Preferred Stock shall cease to accrue after such Redemption Date and all rights with respect to such shares shall forthwith after the Redemption Date terminate, except only the right of the holders to receive the Redemption Price without interest upon surrender of their certificate or certificates therefor.

7. Redeemed or Otherwise Acquired Shares. Any shares of Preferred Stock that are redeemed or otherwise acquired by the Corporation or any of its subsidiaries shall be automatically and immediately cancelled and retired and shall not be reissued, sold or transferred. Neither the Corporation nor any of its subsidiaries may exercise any voting or other rights granted to the holders of Preferred Stock following any such redemption or acquisition.

8. Waiver. Any of the rights, powers, preferences and other terms of the Preferred Stock set forth herein may be waived on behalf of all holders of Preferred Stock by the affirmative written consent or vote of the Requisite Holders.

9. Notices. Any notice required or permitted by the provisions of this Article IV to be given to a holder of shares of Preferred Stock shall be mailed, postage prepaid, to the post office address last shown on the records of the Corporation and shall be deemed sent upon such mailing.

ARTICLE V MANAGEMENT OF THE CORPORATION

For the management of the business and for the conduct of the affairs of the Corporation, and in further definition, limitation and regulation of the powers of the Corporation, of its directors and of its stockholders or any class thereof, as the case may be, it is further *provided* that:

A. The management of the business and the conduct of the affairs of the Corporation shall be vested in its Board of Directors. The number of directors that shall constitute the whole Board of Directors shall be fixed by the Board of Directors in the manner provided in the Bylaws, subject to any restrictions which may be set forth in this Fourth Amended and Restated Certificate of Incorporation.

B. Subject to any additional vote required by this Fourth Amended and Restated Certificate of Incorporation or Bylaws, in furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized to make, repeal, alter, amend and rescind any or all of the Bylaws of the Corporation. The stockholders shall also have the power to adopt, amend or repeal the Bylaws, subject to any restrictions that may be set forth in this Fourth Amended and Restated Certificate of Incorporation.

ARTICLE VI AUTHORIZED DIRECTORS

Subject to any additional vote required by this Fourth Amended and Restated Certificate of Incorporation, the number of directors of the Corporation shall be determined in the manner set forth in the Bylaws of the Corporation.

ARTICLE VII BALLOTS NOT REQUIRED FOR ELECTION OF DIRECTORS

Elections of directors need not be by written ballot unless the Bylaws of the Corporation shall so provide.

ARTICLE VIII MEETINGS OF STOCKHOLDERS

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 IX EXCULPATION

To the fullest extent permitted by law, a director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. If the General Corporation Law or any other law of the State of Delaware is amended after approval by the stockholders of this Article IX 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 General Corporation Law as so amended.

Any repeal or modification of the foregoing provisions of this Article IX by the stockholders of the Corporation shall not adversely affect any right or protection of a director of the Corporation existing at the time of, or increase the liability of any director of the Corporation

with respect to any acts or omissions of such director occurring prior to, such repeal or modification.

ARTICLE X INDEMNIFICATION OF DIRECTORS, OFFICERS AND OTHERS

To the fullest extent permitted by applicable law, the Corporation is authorized to provide indemnification of (and advancement of expenses to) directors, officers and agents of the Corporation (and any other persons to which the General Corporation Law permits the Corporation to provide indemnification) through Bylaw provisions, agreements with such agents or other persons, vote of stockholders or disinterested directors or otherwise, in excess of the indemnification and advancement otherwise permitted by Section 145 of the General Corporation Law.

Any amendment, repeal or modification of the foregoing provisions of this Article X shall not adversely affect any right or protection of any director, officer or other person existing at the time of, or increase the liability of any director, officer or other person with respect to any acts or omissions of such director, officer or agent occurring prior to, such amendment, repeal or modification.

ARTICLE XI CORPORATE OPPORTUNITY

To the fullest extent permitted under the General Corporation Law, in the event that a director of the Corporation who is also a partner, officer or employee of an entity that is a holder of Preferred Stock or Common Stock and that is in the business of purchasing or holding interests in other entities, or an officer or employee of an entity that manages such an entity (each, an **"Institutional Holder"**), acquires knowledge of a potential transaction or matter in such person's capacity as a partner, officer or employee of the Institutional Holder or the manager or general partner of the Institutional Holder and that may be a corporate opportunity for both the Corporation and such Institutional Holder (a **"Corporate Opportunity"**), then (i) such Corporate Opportunity shall belong to such Institutional Holder, (ii) such director shall, to the fullest extent permitted by law, have fully satisfied and fulfilled his fiduciary duty to the Corporation and its stockholders with respect to such Corporate Opportunity, and (iii) the Corporation, to the fullest extent permitted by law, hereby renounces any interest or expectancy of the Corporation in, or in being offered an opportunity to participate in, such Corporate Opportunity and hereby waives any claim that such Corporate Opportunity constituted a corporate opportunity that should have been presented to the Corporation or any of its affiliates; provided, however, that the foregoing shall apply only to the extent such director acts in good faith and such Corporate Opportunity was not offered to such person expressly and solely in his or her capacity as a director of the Corporation.

* * *

IN WITNESS WHEREOF, this Fourth Amended and Restated Certificate of Incorporation has been executed by a duly authorized officer of this Corporation on this 31st day of October, 2017.

By: /s/ Sundeep Bhan
Name: Sundeep Bhan
Title: President