

F88982

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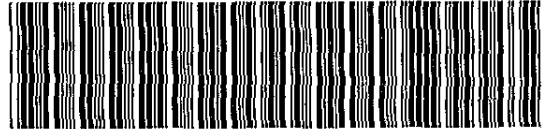
(Business Entity Name)

(Document Number)

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Amend

05/20/05--01039--003 **35.00

DEPT. OF STATE
DIVISION OF CORPORATIONS
TALLAHASSEE, FLORIDA

05 MAY 20 AM 11:58

RECEIVED

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

05 MAY 20 PM 1:44

FILED

*FOR
5/1/05*

CT CORPORATION

May 20, 2005

Department of State, Florida
409 East Gaines Street
Tallahassee FL 32399

Re: Order #: 6368729 SO
Customer Reference 1:
Customer Reference 2:

Dear Department of State, Florida:

Please file the attached:

MedMark Services, Inc. (FL)
Amendment
Florida

Enclosed please find a check for the requisite fees. Please return evidence of filing(s) to the attention of the undersigned.

If for any reason the enclosed cannot be filed upon receipt, please contact the undersigned immediately at (850) 222-1092. Thank you very much for your help.

Sincerely,

Jennifer Murphy
Fulfillment Specialist
Jennifer_Murphy@cch-lis.com

660 East Jefferson Street
Tallahassee, FL 32301
Tel. 850 222 1092
Fax 850 222 7615

**ARTICLES OF AMENDMENT
TO
ARTICLES OF INCORPORATION
OF
MEDMARK SERVICES, INC.**

F88982
(Document Number of Corporation)

FILED
05 MAY 20 PM 1:44
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Pursuant to the provisions of section 607.1006, Florida Statutes, this Florida profit corporation adopts the following articles of amendment to its articles of incorporation:

FIRST: Amendment adopted:

Article IV of the Company's Articles of Incorporation shall be deleted in its entirety and replaced by the following:

ARTICLE IV

The aggregate number, class and par value of the capital stock which the Company shall have the authority to issue shall be as follows:

- (1) 175,000,000 shares of common stock, with no par value ("Common Stock");
- (2) 20,000,000 shares of Series A Redeemable Convertible Preferred Stock, with no par value (the "Series A Preferred Stock");
- (3) 20,000,000 shares of Series A Redeemable Stock, with no par value (the "Series A Redeemable Stock");
- (4) 50,000,000 shares of Series B Redeemable Convertible Preferred Stock, with no par value (the "Series B Preferred Stock");
- (5) 50,000,000 shares of Series B Redeemable Stock, with no par value (the "Series B Redeemable Stock");
- (6) 35,000,000 shares of Series C Redeemable Convertible Preferred Stock, with no par value (the "Series C Preferred Stock");
- (7) 35,000,000 shares of Series C Redeemable Stock, with no par value (the "Series C Redeemable Stock").
- (8) 30,000,000 shares of Series D Redeemable Convertible Preferred Stock, with no par value (the "Series D Preferred Stock");
- (9) 30,000,000 shares of Series D Redeemable Stock, with no par value (the "Series D Redeemable Stock").

In addition to the authorized stock of the Company as set forth above, the Company shall have the authority to issue 50,000,000 shares of preferred stock, with no par value, and the board

of directors may determine the preferences, limitations and relative rights, to the extent permitted by the Florida General Corporation Act, as amended (the "Act"), of any class of shares of such preferred stock before the issuance of any shares of that class, or of one or more series within a class before the issuance of any shares of that series. Each class or series shall be appropriately designated by a distinguishing designation prior to the issuance of any shares thereof. The preferred stock of all series shall have preferences, limitations and relative rights identical with those of other shares of the same series, and, except to the extent otherwise provided in the description of the series, with those of shares of other series of the same class.

Part A. Definitions

For purposes of this Article IV, the following terms shall have the meanings set forth or referred to in this Part A.

"Adoption and Stock Purchase Agreement" shall mean that certain Adoption and Stock Purchase Agreement, dated March 12, 2002, between the Corporation and CMS XIV, CMS XVIII, Brind Partners, Lindsay, Ellison and Mansfield.

"Brind Partners" shall mean Brind Investment Partners, II, a Pennsylvania Partnership.

"Change in Control" means a change in the identity of the individuals in the possession of the power to direct, or cause the direction of, the management and policies of the Corporation, by contract or voting of securities.

"CHL" shall mean CHL Medical Partners II, L.P., a Delaware limited partnership.

"CHL Preferred Director" shall have the meaning set forth in Section 1(a)(i) of Part J.

"CHL Side Fund" shall mean CHL Medical Partners II Side Fund, L.P., a Delaware limited partnership.

"CMS Preferred Director" shall have the meaning set forth in Section 1(a)(ii) of Part J.

"CMS XIV" shall mean CMS PEP XIV Co-Investment Subpartnership, a Delaware Partnership.

"CMS XVIII" shall mean CMS PEP XVIII Co-Investment Subpartnership, a Delaware Partnership.

"Common Stock Equivalents" shall mean any securities convertible into or exchangeable for shares of Common Stock, or any warrants, options, subscriptions or purchase rights with respect to such Common Stock or convertible or exchangeable securities.

"Ellison" shall mean Stuart Ellison, an individual resident of the State of Illinois.

"Lindsay" shall mean Bruce C. Lindsay, an individual resident of the State of Pennsylvania.

"Mandatory Redemption Date" shall mean December 31, 2008.

"Mansfield" shall mean Jon E. Mansfield, an individual resident of the State of Pennsylvania.

"Organic Transaction" means a sale of substantially all of the Corporation's assets, a merger involving the Corporation where the Corporation is not the surviving entity or a Change in Control of the Corporation.

"Qualified IPO" means a fully underwritten, firm commitment public offering of the Common Stock pursuant to an effective registration statement filed with the Securities and Exchange Commission pursuant to the Securities Act of 1933, as amended.

"Recapitalization Event" shall mean a stock dividend, stock split, combination, reorganization, recapitalization, reclassification or other similar event.

"Series A Automatic Conversion Event" shall mean the first to occur of (i) a Qualified IPO of the Common Stock at a price per share greater than three (3) multiplied by the Series A Per Share Price (adjusted to take into account any Recapitalization Event), (ii) the Mandatory Redemption Date, (iii) the Closing Date of an Organic Transaction, or (iv) the liquidation, dissolution, or winding up of the Corporation (including any deemed liquidation pursuant to Section 3(d) of Part H).

"Series A Per Share Price" shall mean \$0.966.

"Series B Automatic Conversion Event" shall mean the first to occur of (i) a Qualified IPO of the Common Stock at a price per share greater than three (3) multiplied by the Series B Per Share Price (adjusted to take into account any Recapitalization Event), (ii) the Mandatory Redemption Date, (iii) the Closing Date of an Organic Transaction, the liquidation, dissolution, or winding up of the Corporation (including any deemed liquidation pursuant to Section 3(d) of Part F).

"Series B Per Share Price" shall mean \$0.15.

"Series B Preferred Stock Equivalents" shall mean any securities convertible into or exchangeable for shares of Series B Preferred Stock, or any warrants, options, subscriptions or purchase rights with respect to such Series B Preferred Stock or convertible or exchangeable securities.

"Series B Subscription Agreement" shall mean that certain Stock Purchase and Subscription Agreement dated October 11, 2002 between the Corporation and CHL, CHL Side Fund, the Steffy Family Trust, CMS XIV, CMS XVIII, Brind Partners, Lindsay, Ellison and Mansfield.

"Series C Automatic Conversion Event" shall mean the first to occur of (i) a Qualified IPO of the Common Stock at a price per share greater than three (3) multiplied by the Series C Per Share Price (adjusted to take into account any Recapitalization Event), (ii) the Mandatory Redemption Date, (iii) the Closing Date of an Organic Transaction, the liquidation, dissolution, or winding up of the Corporation (including any deemed liquidation pursuant to Section 3(d) of Part D).

"Series C Per Share Price" shall mean \$0.15.

"Series D Automatic Conversion Event" shall mean the first to occur of (i) a Qualified IPO of the Common Stock at a price per share greater than three (3) multiplied by the Series D Per Share Price (adjusted to take into account any Recapitalization Event), (ii) the Mandatory Redemption Date, (iii) the Closing Date of an Organic Transaction, the liquidation, dissolution, or winding up of the Corporation (including any deemed liquidation pursuant to Section 3(d) of Part B).

"Series D Per Share Price" shall mean \$0.15.

Part B. Series D Preferred Stock.

The preferences, privileges and restrictions granted to or imposed on the Corporation's Series D Preferred Stock, or the holders thereof, are as follows:

Section 1. Voting Rights.

(a) General. Except as may be otherwise required by law or by these Articles of Incorporation, the holders of Series D Preferred Stock shall vote together with all other classes and series of stock of the Corporation, and not as a separate class or series, on all actions to be taken by the shareholders of the Corporation and shall have such additional voting rights as provided in these Articles of Incorporation or provided by law. Each share of Series D Preferred Stock shall entitle the holder thereof to such number of votes per share on each such action as shall equal the number of shares of Common Stock (including fractions of a share) into which such share of Series D Preferred Stock is then convertible on the record date for the determination of the shareholders entitled to vote on such matters, or, if no such record date is established, in accordance with the Act.

(b) Written Consent. Except as otherwise required by law, in any case in which an affirmative vote of the holders of record of a proportion of the Series D Preferred Stock is required under these Articles of Incorporation, the written consent (which may be in the form of a written consent action pursuant to the Act or in another form evidencing such consent) of the holders of record of such proportion of the shares of Series D Preferred Stock shall be deemed equivalent to such a vote.

Section 2. Dividends.

(a) Computation of Preferred Noncumulative Dividends. The holders of the outstanding shares of Series D Preferred Stock shall be entitled to receive noncumulative dividends, on each share of Series D Preferred Stock, at the annual rate of ten percent (10%) of the Series D Per Share Price per annum, in cash, out of funds legally available therefor, when, as and if declared by the Board of Directors.

(b) Priority of Dividends. The shares of Series D Preferred Stock shall be preferred as to payment of dividends over the Common Stock, the Series A Preferred Stock, the Series A Redeemable Stock, the Series B Preferred Stock, the Series B Redeemable Stock, the Series C Preferred Stock and the Series C Redeemable Stock, all

as provided in this Section 2. The right of the shares of Series D Preferred Stock to payment of dividends shall be on a *pari passu* basis with the shares of Series D Redeemable Stock.

(c) Adjustments. The amounts to be paid or set aside for payment as provided above in this Section 2 shall be proportionately increased or decreased in inverse relation to the change in the number of outstanding shares resulting from any Recapitalization Event involving a change in the terms of the Series D Preferred Stock.

(d) Computation of Participating Dividends. Following full payment of all declared and unpaid preferred dividends on the Series D Preferred Stock and the Series D Redeemable Stock, and all accrued preferred dividends on the Series C Preferred Stock, the Series C Redeemable Stock, the Series B Preferred Stock, the Series B Redeemable Stock, the Series A Preferred Stock and the Series A Redeemable Stock, in each case whether in stock or in cash, the holders of the Series D Preferred Stock shall share ratably with the holders of Series C Preferred Stock, Series B Preferred Stock, Series A Preferred Stock and Common Stock, in each case on an as-converted to Common Stock basis, in any regular dividends declared by the Corporation.

Section 3. Liquidation Preferences.

(a) Computation of Preferred Liquidation Rights. In the event of any liquidation, dissolution, or winding up of the Corporation, whether voluntary or involuntary, or in the event of its insolvency, the holders of Series D Preferred Stock shall be entitled to have set apart for them, or to be paid, out of the assets of the Corporation available for distribution to stockholders, and before any distribution or payment is made to any holders of any shares of Common Stock or any other class or series of capital stock of the Corporation (other than the holders of the Series D Redeemable Stock as provided in Section 3(b) below), an amount equal to three (3) times the Series D Per Share Price (which amount shall be subject to equitable adjustment in the event of a Recapitalization Event involving a change in the capital structure of the Corporation with respect to the Series D Preferred Stock) plus all declared and unpaid dividends thereon.

(b) Priority. The shares of Series D Preferred Stock shall be preferred as to distributions in the event of any liquidation, dissolution, or winding up of the Corporation, whether voluntary or involuntary, or in the event of its insolvency, over the Common Stock, the Series A Preferred Stock, the Series A Redeemable Stock, the Series B Preferred Stock, the Series B Redeemable Stock, the Series C Preferred Stock and the Series C Redeemable Stock. If, upon any liquidation, dissolution, or winding up of the Corporation, whether voluntary or involuntary, the assets legally available for distribution among the holders of Series D Preferred Stock and Series D Redeemable Stock shall be insufficient to permit payment to such holders of the full preferential amounts as provided for above and in Section 4 of Part C, then such holders shall share ratably in any distribution of available assets according to the respective amounts which would otherwise be payable with respect to the shares of Series D Preferred Stock and Series D Redeemable Stock held by them upon such liquidating distribution if all amounts payable on or with respect to said shares were paid in full, based upon the aggregate liquidation value of the Series D Preferred Stock and the Series D Redeemable Stock.

(c) Intentionally Omitted.

(d) Deemed Liquidation. For purposes of this Section 3, any of the following transactions shall be deemed to be a liquidation, dissolution or winding up: (1) a consolidation or merger of the Corporation with or into any other corporation or corporations, (2) a sale or other disposition of all or substantially all of the assets of the Corporation, except with respect to an Organic Transaction which results in the automatic conversion of the Series D Preferred Stock into shares of Common Stock pursuant to Section 4(e) of this Part B, and (3) the issuance and/or sale by the Corporation of shares of Common Stock (or securities convertible into shares of Common Stock) in a single or integrated transaction constituting a majority of the shares of Common Stock outstanding immediately following such issuance (treating all securities convertible into shares of Common Stock as having been fully converted and all options and other rights to acquire shares of Common Stock or securities convertible into shares of Common Stock as having been fully exercised); provided, however, that none of the foregoing transactions shall be deemed to be a liquidation, dissolution or winding up for purposes of this paragraph unless an election to do so shall have been approved by an affirmative vote of holders of record of a majority of the shares of Series D Preferred Stock and Series D Redeemable Stock then outstanding.

Section 4. Conversion Rights.

(a) General. Subject to the terms and conditions set forth in this Section 4, each holder of record of any share of Series D Preferred Stock may, at any time, upon surrender to the Corporation of the certificate(s) therefor at the principal office of the Corporation or at such other place as the Corporation shall designate, convert all or any part of such holder's share(s) of Series D Preferred Stock. Upon any conversion pursuant to this Section 4(a), each share of Series D Preferred Stock to be converted shall be converted into (i) one (1) fully paid and non-assessable share of Series D Redeemable Preferred Stock and (ii) that number of fully paid and non-assessable shares of Common Stock determined by dividing the Series D Per Share Price plus all declared and unpaid dividends thereon by the then effective Series D Conversion Price, as adjusted pursuant to Subsection (b) of this Section 4, in effect as of the effective date of such conversion. The initial "Series D Conversion Price" shall be the Series D Per Share Price.

(b) Adjustments. The number of shares of Common Stock into which each share of Series D Preferred Stock may be converted shall be subject to the following adjustments, any or all of which may be waived with respect to the occurrence of an event giving rise to such an adjustment by the unanimous vote of the CHL Preferred Directors and the CMS Preferred Director.

(i) Upon Issuances of Common Stock or Common Stock Equivalents. If the Corporation shall issue or sell any shares of its Common Stock or any Common Stock Equivalents, except as set forth more particularly in Section 4(b)(ii), at a price per share which is less than the Series D Conversion Price in effect immediately prior to such issuance or sale, then in each case the Series D Conversion Price shall be reduced, upon such issuance or sale, to a price

equal to the lowest per share price at which any share of Common Stock or Common Stock Equivalent was sold in such issuance or sale.

(A) For the purposes of this Section 4(b)(i), if the Corporation shall issue or sell any Common Stock Equivalents (except as set forth more particularly in Section 4(b)(ii)), the maximum total number of shares of Common Stock issuable upon exercise of such rights or the exchange and conversion of such Common Stock Equivalents shall thereupon be deemed to have been issued and to be outstanding, and the consideration received by the Corporation therefor shall be deemed to include the sum of the consideration received for the issue of such rights and the minimum additional consideration payable upon the exercise of such rights or the exchange and conversion of such Common Stock Equivalents. No further adjustment of the Series D Conversion Price adjusted upon the issuance of such rights shall be made as a result of the actual issuance of shares of Common Stock on the exercise of any such rights or the exchange and conversion of such Common Stock Equivalents. If the provisions of any rights described in this Section 4(b)(i) with respect to the purchase price of shares of Common Stock or the number of shares purchasable shall change or expire or if the purchase price thereunder shall decrease or the number of shares purchasable thereunder increase, any adjustment previously made hereunder for such rights with respect to Series D Preferred Stock not yet converted shall be readjusted as of the date of issuance of such rights to such as would have obtained on the basis of the rights as modified by such change or expiration (except for the operation of any anti-dilutive provisions thereof).

(B) In case the Corporation shall issue shares of its Common Stock or Common Stock Equivalents for a consideration wholly or partly other than cash, the amount of the consideration other than cash received by the Corporation shall be deemed to be the fair market value of such consideration as determined reasonably and in good faith by the Board of Directors of the Corporation.

(C) In case Common Stock shall be deemed to have been issued upon the issuance by the Corporation of any right to acquire such Common Stock in connection with the issue or sale of other securities or assets of the Corporation, together comprising one integrated transaction, such rights shall be deemed to have been issued for such portion of the consideration received as may be reasonably determined in good faith by the Board of Directors to be allocable thereto.

(D) Consideration received by the Corporation for issuance of its Common Stock shall be determined in all cases without deduction therefrom of any expenses, underwriting commissions or concessions incurred in connection therewith which are reasonable and customary with respect to that particular transaction.

(ii) Exceptions to Anti-Dilution. Anything herein notwithstanding, no adjustments in the number of shares of Common Stock deliverable upon conversion of the Series D Preferred Stock as set forth in Section 4(b)(i) shall be made by reason of or in connection with the issuance of options for up to ten percent (10%) of the Corporation's capitalization as of the date hereof issued to employees of the Corporation.

(iii) Changes in Common Stock; Capital Reorganization or Reclassification. If the Corporation shall subdivide the outstanding shares of Common Stock into a greater number of shares of Common Stock or combine the outstanding shares of Common Stock into a lesser number of shares, or issue additional shares of Common Stock as a dividend or other distribution on its Common Stock (other a dividend provided for in Section 2 of Part F), or reorganize or reclassify its shares of Common Stock into any other shares of the Corporation, the number of shares of Common Stock or other shares of the Corporation into which each share of Series D Preferred Stock may be converted immediately prior thereto shall be adjusted so that the holder of the shares of Series D Preferred Stock thereafter surrendered for conversion shall be entitled to receive for each share of Series D Preferred Stock the number of shares of Common Stock or other shares of the Corporation which such holder would have owned or been entitled to receive after the happening of any of the events described above if such holder's Series D Preferred Stock had been converted into Common Stock immediately prior to the happening of such event, such adjustment to become effective concurrently with effectiveness of such event.

(iv) Merger, Consolidation or Sale of Assets. If there shall be a merger or consolidation of the Corporation with or into another corporation (other than a merger or reorganization involving only a change in the state of incorporation of the Corporation or the acquisition by the Corporation of other businesses where the Corporation survives as a going concern), or the sale of all or substantially all of the Corporation's capital stock or assets to any other person to which the provisions of Section 4(b)(i) do not apply, then as a part of such transaction, provision shall be made so that the holders of the Series D Preferred Stock shall thereafter be entitled to receive upon conversion of the Series D Preferred Stock the number of shares of stock or other securities or property of the Corporation, or of the successor corporation resulting from the merger, consolidation or sale, to which such holder would have been entitled if such holder had converted its shares of Series D Preferred Stock into shares of Common Stock immediately prior thereto. In any such case, appropriate adjustment shall be made in the application of the provisions of this Section 4 to the end that the provisions of this Section 4 shall be applicable after that event in as nearly equivalent a manner as may be practicable.

(c) Notice of Adjustments. Upon any adjustment of the Series D Conversion Price or the number of shares of Common Stock into which Series D Preferred Stock may be converted, then in each such case the Corporation shall give written notice thereof within thirty (30) days of the occurrence of the adjustment, addressed to each registered holder of Series D Preferred Stock at the address of such holder as shown on the records

of the Corporation. Such notice shall state the Series D Conversion Price resulting from such adjustment and the increase or decrease, if any, in the number or shares of Common Stock issuable upon the conversion of Series D Preferred Stock, setting forth in reasonable detail the method of calculation and the facts upon which such calculation is based.

(d) Exercise of Conversion Privilege. To exercise its conversion privilege, a holder of Series D Preferred Stock shall surrender the certificate or certificates representing the shares being converted to the Corporation at its principal office, and shall give written notice to the Corporation at that office that such holder elects to convert such shares. The certificate or certificates for shares of Series D Preferred Stock surrendered for conversion shall be accompanied by proper assignment thereof to the Corporation or in blank. As promptly as practicable after the date when such written notice is received by the Corporation (each, a "Series D Conversion Date"), the Corporation shall issue and shall deliver to the holder of the shares of Series D Preferred Stock being converted, or on its written order, such certificate or certificates as it may request for the number of shares of Common Stock and Series D Redeemable Stock issuable upon the conversion of such shares of Series D Preferred Stock in accordance with the provisions of this Section 4, including shares of Common Stock and Series D Redeemable Stock for all unpaid dividends on such shares of Series D Preferred Stock, up to and including the applicable Series D Conversion Date. Such conversion shall be deemed to have been effected immediately prior to the close of business on the applicable Series D Conversion Date, and at such time the rights of the holder as holder of the converted shares of Series D Preferred Stock shall cease and the person(s) in whose name(s) any certificate(s) for shares of Series D Redeemable Stock and Common Stock shall be issuable shall be deemed to have become the holder or holders of record of the shares of Series D Redeemable Stock and Common Stock represented thereby.

(e) Automatic Conversion. The Series D Preferred Stock shall automatically convert into the securities contemplated by Section 4(a) hereof on the earlier to occur of a Series D Automatic Conversion Event. On or after the date of occurrence of a Series D Automatic Conversion Event, and in any event within ten (10) days after receipt of notice, by mail, postage prepaid from the Corporation of the occurrence of such event, each holder of record of shares of Series D Preferred Stock shall surrender such holder's certificates evidencing such shares at the principal office of the Corporation or at such other place as the Corporation shall designate, and shall thereupon be entitled to receive certificates evidencing the number of shares of Common Stock and Series D Redeemable Stock into which such shares of Series D Preferred Stock are converted. On the date of the occurrence of a Series D Automatic Conversion Event, each holder of record of shares of Series D Preferred Stock shall be deemed to be the holder of record of the shares of Common Stock and Series D Redeemable Stock issuable upon such conversion and no shares of Series D Preferred Stock shall be considered outstanding, without any further action by the holders of such shares and whether or not the certificates representing such shares of Series D Preferred Stock are surrendered to the Corporation or its transfer agent.

Section 5. Covenants / Restrictions and Limitations.

(a) Amendment of Corporate Documents. The Corporation shall not, for so long as any shares of Series D Preferred Stock are outstanding, take any corporate action or otherwise amend its Articles of Incorporation without the approval by vote or written consent of the holders of at least a majority of the then outstanding shares of Series D Preferred Stock if such corporate action or amendment would change any of the rights, preferences, privileges or limitations provided for herein for the benefit of any shares of Series D Preferred Stock or materially adversely affect the rights of the holders of Series D Preferred Stock.

(b) Actions Requiring Series D Preferred Stock and Series D Redeemable Stock Approval. So long as any shares of Series D Preferred Stock or Series D Redeemable Stock are outstanding, the Corporation shall not take any of the following actions without the approval of a majority of the holders of record of Series D Preferred Stock and Series D Redeemable Preferred Stock, voting as a single class with, for purposes of this Section 5(b), one vote for each share of Series D Preferred Stock or Series D Redeemable Stock outstanding on the record date for the determination of the shareholders entitled to vote on such matters, or, if no such record date is established, in accordance with the Act:

- (i) Issue any equity securities at a price below the then current Series D Conversion Price;
- (ii) Issue any equity securities, convertible shareholder debt, or other equity with terms senior to or equal to the Series D Preferred Stock;
- (iii) Make or declare any distributions, including dividends, whether in cash, stock or assets of the Corporation with respect to any equity securities of the Corporation junior to or equal to the Series D Preferred Stock (other than a dividend provided for in Section 2 of Parts D, E, F, G, H and I) or redeem any of such securities;
- (iv) Sell or otherwise dispose of all or substantially all of the Corporation's assets through a merger, sale or otherwise, or the sale or disposition of any of the Corporation's material assets;
- (v) Amend the Corporation's By-Laws or Articles of Incorporation; or
- (vi) Dissolve, liquidate or file, or consent to the filing of, a petition in bankruptcy.

(c) Written Consents. In any case in which an affirmative vote of the holders of record of a proportion of the Series D Preferred Stock and Series D Redeemable Stock is required under the provisions of Section 5(b), the written consent (which may be in the form of a written consent action pursuant to the Act or in another form evidencing such consent) of the holders of record of such proportion of the shares of Series D Preferred Stock and Series D Redeemable Stock shall be deemed equivalent to such a vote.

(d) Termination of Restrictions. The provisions of Section 5(a) and 5(b) shall terminate upon the redemption or cancellation of all shares of Series D Redeemable Stock.

(e) Priority of Series D Preferred Stock on Dividends and Redemptions. The Corporation shall not, for so long as any shares of Series D Preferred Stock are outstanding, redeem, purchase or otherwise acquire directly or indirectly, any equity securities, nor shall the Corporation directly or indirectly pay or declare any dividend or make any distribution upon any equity securities (other than a dividend provided for in Section 2 of Parts D, E, F, G, H and I) without the approval by vote or written consent of the holders of at least a majority of the then outstanding shares of Series D Preferred Stock.

(f) Reservation of Stock.

(i) The Corporation shall at all times reserve and keep available out of its authorized but unissued Common Stock and Series D Redeemable Stock the full number of shares of Common Stock and Series D Redeemable Stock deliverable upon the conversion of all the then outstanding shares of Series D Preferred Stock and shall take all such action and obtain all such permits or orders as may be necessary to enable the Corporation lawfully to issue such Common Stock and Series D Redeemable Stock upon the conversion of Series D Preferred Stock.

(ii) The Corporation shall at all times reserve and keep available out of its authorized but unissued Series D Preferred Stock a sufficient number of shares of Series D Preferred Stock necessary to fulfill its obligation with respect to the issuance of additional shares of Series D Preferred Stock, including but not limited to pursuant to Section 2(a) hereof.

(g) No Dilution or Impairment. The Corporation will not, by amendment of its Articles of Incorporation or through any reorganization, transfer of capital stock or assets, consolidation, merger, dissolution, issuance or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of Series D Preferred Stock set forth herein, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such action as may be necessary or appropriate in order to protect the rights of the holders of Series D Preferred Stock against dilution or other impairment. Without limiting the generality of the foregoing, the Corporation (a) will not increase the par value of any shares of stock receivable on the conversion of Series D Preferred Stock above the amount payable therefor on such conversion, and (b) will take all such action as may be necessary or appropriate in order that the Corporation may validly and legally issue fully paid and nonassessable shares of Common Stock and Series D Redeemable Stock on the conversion of all Series D Preferred Stock from time to time outstanding.

(h) Notices of Record Date. In the event of:

(i) any taking by the Corporation of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend or other distribution, or any right to subscribe for, purchase or otherwise acquire any shares of capital stock of any class or any other securities or property, or to receive any other right, or

(ii) any capital reorganization of the Corporation, any reclassification or recapitalization of the capital stock of the Corporation, any merger or consolidation of the Corporation, or any transfer of all or substantially all of the assets of the Corporation to any other Corporation, or any other entity or person, or

(iii) any voluntary or involuntary dissolution, liquidation or winding up of the Corporation,

then and in each such event the Corporation shall deliver or cause to be delivered to each holder of Series D Preferred Stock a notice specifying (i) the date on which any such record is to be taken for the purpose of such dividend, distribution or right and a description of such dividend, distribution or right, (ii) the date on which any such reorganization, reclassification, recapitalization, transfer, consolidation, merger, dissolution, liquidation or winding up is expected to become effective, and (iii) the time, if any, that is to be fixed, as to when the holders of record of Common Stock (or other securities) shall be entitled to exchange their shares of Common Stock (or other securities) for securities or other property deliverable upon such reorganization, reclassification, recapitalization, transfer, consolidation, merger, dissolution, liquidation or winding up. Such notice shall be delivered by facsimile transmission, hand delivery or overnight courier service to the holders of Series D Preferred Stock at the address given to the Corporation, for notice purposes, at least ten (10) days prior to the date specified in such notice on which such action is to be taken, except in the case of an involuntary dissolution, which notice shall be provided within three (3) days following the date upon which the Corporation receives notice of such event.

(i) No Reissuance of Series D Preferred Stock. No share or shares of Series D Preferred Stock acquired by the Corporation by reason of redemption, purchase, conversion or otherwise shall be reissued, and all such shares shall be cancelled, retired and eliminated from the shares which the Corporation shall be authorized to issue.

(j) Information. So long as any shares of Series D Preferred Stock are outstanding, the Corporation shall furnish to the holder of the Series D Preferred Stock, or their representatives, the following information with respect to the Corporation and its operations:

(i) Within thirty days (30) after the end of each month, monthly and year to date financial reports detailing the income statement, balance sheet and cash flow statements of operations. The income statement shall detail operating performance versus plan and prior year's operating performance.

(ii) Within ninety days (90) of the end of each fiscal year, audited financial statements, audited by a "Big Five" accounting firm.

(iii) Thirty days (30) prior to the beginning of each fiscal year, an annual budget.

All financial information shall be presented in a consolidated and consolidating format.

(k) Certain Taxes. The Corporation shall pay any issue or transfer taxes payable in connection with the conversion of Series D Preferred Stock, provided, however, that the corporation shall not be required to pay any tax which may be payable in respect of any transfer to a name other than that of the holder of Series D Preferred Stock.

(l) Closing of Books. The Corporation shall at no time close its transfer books against the transfer of any Series D Preferred Stock or of any shares of Common Stock or Series D Redeemable Stock issued or issuable upon the conversion of any shares of Series D Preferred Stock in any manner which interferes with the timely conversion or transfer of Series D Preferred Stock, Common Stock or Series D Redeemable Stock.

Part C. Series D Redeemable Stock

The preferences, privileges and restrictions granted to or imposed on the Corporation's Series D Redeemable Stock, or the holders thereof, are as follows:

Section 1. General.

(a) Limited Rights. Other than with respect to the approval rights set forth in Section 1(b) hereof and in Section 5(b) of Part B of this Article IV, the dividends payable pursuant to Section 2 hereof, the liquidation rights set forth in Section 3 hereof and the redemption rights set forth in Section 4 hereof, the Series D Redeemable Stock shall have no other preferences or rights vis-à-vis the holders of the Corporation's Common Stock.

(b) Amendment of Corporate Documents. The Corporation shall not, for so long as any shares of Series D Redeemable Stock are outstanding, take any corporate action or otherwise amend its Articles of Incorporation without the approval by vote or written consent of the holders of at least a majority of the then outstanding shares of Series D Redeemable Stock if such corporate action or amendment would change any of the rights, preferences, privileges or limitations provided for herein for the benefit of any shares of Series D Redeemable Stock or materially adversely affect the rights of the holders of Series D Redeemable Stock. In any case in which an affirmative vote of the holders of record of a proportion of the Series D Redeemable Stock is required under the provisions of this Section 1(b), the written consent (which may be in the form of a written consent action pursuant to the Act or in another form evidencing such consent) of the holders of record of such proportion of the shares of Series D Redeemable Stock shall be deemed equivalent to such a vote.

Section 2. Dividends.

(a) Computation of Preferred Cumulative Dividends. The holders of the outstanding shares of Series D Redeemable Stock shall be entitled to receive cumulative dividends, on each share of Series D Redeemable Stock, at the annual rate of ten percent (10%) of the Series D Per Share Price per annum, in cash, out of funds legally available therefor, when, as and if declared by the Board of Directors.

(b) Priority of Dividends. The shares of Series D Redeemable Stock shall be preferred as to payment of dividends over the Common Stock, the Series A Preferred Stock, the Series A Redeemable Stock, the Series B Preferred Stock, the Series B Redeemable Stock, the Series C Preferred Stock and the Series C Redeemable Stock, all as provided in this Section 2. The right of the shares of Series D Redeemable Stock to payment of dividends shall be on a *pari passu* basis with the shares of Series D Preferred Stock.

(c) Adjustments. The amounts to be paid or set aside for payment as provided above in this Section 2 shall be proportionately increased or decreased in inverse relation to the change in the number of outstanding shares resulting from any Recapitalization Event involving a change in the terms of the Series D Redeemable Stock.

Section 3. Liquidation Preferences.

(a) Computation of Preferred Liquidation Rights. In the event of any liquidation, dissolution, or winding up of the Corporation, whether voluntary or involuntary, or in the event of its insolvency, the holders of Series D Redeemable Stock shall be entitled to have set apart for them, or to be paid, out of the assets of the Corporation available for distribution to stockholders, and before any distribution or payment is made to any holders of any shares of Common Stock or any other class or series of capital stock of the Corporation (other than the holders of the Series D Preferred Stock as provided in Section 3(b) of Part B), an amount equal to three (3) times the Series D Per Share Price (which amount shall be subject to equitable adjustment in the event of a Recapitalization Event involving a change in the capital structure of the Corporation with respect to the Series D Redeemable Stock) plus all declared and unpaid dividends thereon.

(b) Priority. The shares of Series D Redeemable Stock shall be preferred as to distributions in the event of any liquidation, dissolution, or winding up of the Corporation, whether voluntary or involuntary, or in the event of its insolvency, over the Common Stock, the Series A Preferred Stock, the Series A Redeemable Stock, the Series B Preferred Stock, the Series B Redeemable Stock, the Series C Preferred Stock and the Series C Redeemable Stock. If, upon any liquidation, dissolution, or winding up of the Corporation, whether voluntary or involuntary, the assets legally available for distribution among the holders of Series D Preferred Stock and Series D Redeemable Stock shall be insufficient to permit payment to such holders of the full preferential amounts as provided for above and in Section 3 of Part B, then such holders shall share ratably in any distribution of available assets according to the respective amounts which would otherwise be payable with respect to the shares of Series D Preferred Stock and Series D Redeemable Stock held by them upon such liquidating distribution if all amounts payable

on or with respect to said shares were paid in full, based upon the aggregate liquidation value of the Series D Preferred Stock and the Series D Redeemable Stock.

(c) Deemed Liquidation. For purposes of this Section 3, any of the following transactions shall be deemed to be a liquidation, dissolution or winding up: (1) a consolidation or merger of the Corporation with or into any other corporation or corporations, (2) a sale or other disposition of all or substantially all of the assets of the Corporation, except with respect to an Organic Transaction which results in the automatic conversion of the Series D Preferred Stock into shares of Common Stock pursuant to Section 4(e) of Part B, and (3) the issuance and/or sale by the Corporation of shares of Common Stock (or securities convertible into shares of Common Stock) in a single or integrated transaction constituting a majority of the shares of Common Stock outstanding immediately following such issuance (treating all securities convertible into shares of Common Stock as having been fully converted and all options and other rights to acquire shares of Common Stock or securities convertible into shares of Common Stock as having been fully exercised); provided, however, that none of the foregoing transactions shall be deemed to be a liquidation, dissolution or winding up for purposes of this paragraph unless an election to do so shall have been approved by an affirmative vote of holders of record of a majority of the shares of Series D Preferred Stock and Series D Redeemable Stock then outstanding.

Section 4. Redemption. Each issued and outstanding share of the Series D Redeemable Stock shall be redeemed by the Corporation at the liquidation price set forth in Section 3(a) hereof on the earlier to occur of (i) the closing date an Organic Transaction, (ii) a Qualifying IPO, or (iii) the Mandatory Redemption Date.

Part D. Series C Preferred Stock.

The preferences, privileges and restrictions granted to or imposed on the Corporation's Series C Preferred Stock, or the holders thereof, are as follows:

Section 1. Voting Rights.

(a) General. Except as may be otherwise required by law or by these Articles of Incorporation, the holders of Series C Preferred Stock shall vote together with all other classes and series of stock of the Corporation, and not as a separate class or series, on all actions to be taken by the shareholders of the Corporation and shall have such additional voting rights as provided in these Articles of Incorporation or provided by law. Each share of Series C Preferred Stock shall entitle the holder thereof to such number of votes per share on each such action as shall equal the number of shares of Common Stock (including fractions of a share) into which such share of Series C Preferred Stock is then convertible (following conversion of such share of Series C Preferred Stock into Series B Preferred Stock as provided in Section 4 of this Part D) on the record date for the determination of the shareholders entitled to vote on such matters, or, if no such record date is established, in accordance with the Act.

(b) Written Consent. Except as otherwise required by law, in any case in which an affirmative vote of the holders of record of a proportion of the Series C Preferred

Stock is required under these Articles of Incorporation, the written consent (which may be in the form of a written consent action pursuant to the Act or in another form evidencing such consent) of the holders of record of such proportion of the shares of Series C Preferred Stock shall be deemed equivalent to such a vote.

Section 2. Dividends.

(a) Computation of Preferred Cumulative Dividends. The holders of the outstanding shares of Series C Preferred Stock shall be entitled to receive cumulative dividends, on each share of Series C Preferred Stock, at the annual rate of ten percent (10%) of the Series C Per Share Price per annum. The Corporation shall pay such dividends in shares of Series C Preferred Stock valued at the Series C Per Share Price, unless the Board of Directors shall declare and pay such dividends in cash out of funds legally available therefor. Such dividends shall accrue quarterly on each share of Series C Preferred Stock from the date of original issuance of such share, whether or not earned or declared, and shall accrue on each such share until (i) such share is converted pursuant to Section 4 of this Part D, or (ii) paid in any distribution of the assets of the Corporation with respect to any liquidation, dissolution or winding up of the Corporation; provided, however, that on the date of any event described in clause (i) or (ii) above with respect to a share of Series C Preferred Stock, dividends shall accrue on such share on such date regardless of whether such date would otherwise be a dividend accrual date.

(b) Priority of Dividends. The shares of Series C Preferred Stock shall be preferred as to payment of dividends over the Common Stock, the Series A Preferred Stock, the Series A Redeemable Stock, the Series B Preferred Stock and the Series B Redeemable Stock, all as provided in this Section 2. The right of the shares of Series C Preferred Stock to payment of dividends shall be on a *pari passu* basis with the shares of Series C Redeemable Stock, and shall be junior to the right of the Series D Preferred Stock and the Series D Redeemable Stock to payment of dividends.

(c) Adjustments. The amounts to be paid or set aside for payment as provided above in this Section 2 shall be proportionately increased or decreased in inverse relation to the change in the number of outstanding shares resulting from any Recapitalization Event involving a change in the terms of the Series C Preferred Stock.

(d) Computation of Participating Dividends. Following full payment of all accrued preferred dividends on the Series D Preferred Stock, the Series D Redeemable Stock, the Series C Preferred Stock, the Series C Redeemable Stock, the Series B Preferred Stock, the Series B Redeemable Stock, the Series A Preferred Stock and the Series A Redeemable Stock, in each case whether in stock or in cash, the holders of the Series C Preferred Stock shall share ratably with the holders of the Series D Preferred Stock, Series B Preferred Stock, Series A Preferred Stock and Common Stock, in each case on an as-converted to Common Stock basis, in any regular dividends declared by the Corporation.

Section 3. Liquidation Preferences.

(a) Computation of Preferred Liquidation Rights. In the event of any liquidation, dissolution, or winding up of the Corporation, whether voluntary or involuntary, or in the event of its insolvency, the holders of Series C Preferred Stock shall be entitled to have set apart for them, or to be paid, out of the assets of the Corporation available for distribution to stockholders, and before any distribution or payment is made to any holders of any shares of Common Stock or any other class or series of capital stock of the Corporation (other than the holders of the Series C Redeemable Stock as provided in Section 3(b) below), but after all distributions and payments to be made to the holders of any shares of Series D Preferred Stock or series D Redeemable Stock, an amount equal to the Series C Per Share Price (which amount shall be subject to equitable adjustment in the event of a Recapitalization Event involving a change in the capital structure of the Corporation with respect to the Series C Preferred Stock) plus all accrued and unpaid dividends thereon, whether or not earned or declared, up to and including the date full payment shall be tendered to the holders of Series C Preferred Stock with respect to such liquidation, dissolution or winding up.

(b) Priority. The shares of Series C Preferred Stock shall be preferred as to distributions in the event of any liquidation, dissolution, or winding up of the Corporation, whether voluntary or involuntary, or *in the event of its insolvency*, over the Common Stock, the Series A Preferred Stock, the Series A Redeemable Stock, the Series B Preferred Stock and the Series B Redeemable Stock, but shall be junior to the right to distributions of the Series D Preferred Stock (other than as provided in Section 3(c) of Part B) and the Series D Redeemable Stock. If, upon any liquidation, dissolution, or winding up of the Corporation, whether voluntary or involuntary, the assets legally available for distribution among the holders of Series C Preferred Stock and Series C Redeemable Stock shall be insufficient to permit payment to such holders of the full preferential amounts as provided for above and in Section 4 of Part E, then such holders shall share ratably in any distribution of available assets according to the respective amounts which would otherwise be payable with respect to the shares of Series C Preferred Stock and Series C Redeemable Stock held by them upon such liquidating distribution if all amounts payable on or with respect to said shares were paid in full, based upon the aggregate liquidation value of the Series C Preferred Stock and the Series C Redeemable Stock.

(c) Intentionally Omitted.

(d) Deemed Liquidation. For purposes of this Section 3, any of the following transactions shall be deemed to be a liquidation, dissolution or winding up: (1) a consolidation or merger of the Corporation with or into any other corporation or corporations, (2) a sale or other disposition of all or substantially all of the assets of the Corporation, except with respect to an Organic Transaction which results in the automatic conversion of the Series C Preferred Stock into shares of Series B Preferred Stock pursuant to Section 4(e) of this Part D, and (3) the issuance and/or sale by the Corporation of shares of Common Stock (or securities convertible into shares of Common Stock) in a single or integrated transaction constituting a majority of the shares of Common Stock outstanding immediately following such issuance (treating all securities convertible into shares of Common Stock as having been fully converted and all options and other rights to acquire shares of Common Stock or securities convertible

into shares of Common Stock as having been fully exercised); provided, however, that none of the foregoing transactions shall be deemed to be a liquidation, dissolution or winding up for purposes of this paragraph unless an election to do so shall have been approved by an affirmative vote of holders of record of a majority of the shares of Series C Preferred Stock and Series C Redeemable Stock then outstanding.

Section 4. Conversion Rights.

(a) General. Subject to the terms and conditions set forth in this Section 4, each holder of record of any share of Series C Preferred Stock may, at any time, upon surrender to the Corporation of the certificate(s) therefor at the principal office of the Corporation or at such other place as the Corporation shall designate, convert all or any part of such holder's share(s) of Series C Preferred Stock. Upon any conversion pursuant to this Section 4(a), each share of Series C Preferred Stock to be converted shall be converted into (i) one (1) fully paid and non-assessable share of Series C Redeemable Preferred Stock and (ii) that number of fully paid and non-assessable shares of Series B Preferred Stock determined by dividing the Series C Per Share Price by the then effective Series C Conversion Price, as adjusted pursuant to Subsection (b) of this Section 4, in effect as of the effective date of such conversion. The initial "Series C Conversion Price" shall be the Series C Per Share Price.

(b) Adjustments. The number of shares of Series B Preferred Stock into which each share of Series C Preferred Stock may be converted shall be subject to the following adjustments, any or all of which may be waived with respect to the occurrence of an event giving rise to such an adjustment by the unanimous vote of the CHL Preferred Directors and the CMS Preferred Director.

(i) Upon Issuances of Series B Preferred Stock or Series B Preferred Stock Equivalents. If the Corporation shall issue or sell any shares of its Series B Preferred Stock or any Series B Preferred Stock Equivalents, except as set forth more particularly in Section 4(b)(ii), at a price per share which is less than the Series C Conversion Price in effect immediately prior to such issuance or sale, then in each case the Series C Conversion Price shall be reduced, upon such issuance or sale, to a price equal to the lowest per share price at which any share of Series B Preferred Stock or Series B Preferred Stock Equivalent was sold in such issuance or sale.

(A) For the purposes of this Section 4(b)(i), if the Corporation shall issue or sell any Series B Preferred Stock Equivalents (except as set forth more particularly in Section 4(b)(ii)), the maximum total number of shares of Series B Preferred Stock issuable upon exercise of such rights or the exchange and conversion of such Series B Preferred Stock Equivalents shall thereupon be deemed to have been issued and to be outstanding, and the consideration received by the Corporation therefor shall be deemed to include the sum of the consideration received for the issue of such rights and the minimum additional consideration payable upon the exercise of such rights or the exchange and conversion of such Series B Preferred Stock Equivalents. No further adjustment of the Series C Conversion

Price adjusted upon the issuance of such rights shall be made as a result of the actual issuance of shares of Series B Preferred Stock on the exercise of any such rights or the exchange and conversion of such Series B Preferred Stock Equivalents. If the provisions of any rights described in this Section 4(b)(i) with respect to the purchase price of shares of Series B Preferred Stock or the number of shares purchasable shall change or expire or if the purchase price thereunder shall decrease or the number of shares purchasable thereunder increase, any adjustment previously made hereunder for such rights with respect to Series C Preferred Stock not yet converted shall be readjusted as of the date of issuance of such rights to such as would have obtained on the basis of the rights as modified by such change or expiration (except for the operation of any anti-dilutive provisions thereof).

(B) In case the Corporation shall issue shares of its Series B Preferred Stock or Series B Preferred Stock Equivalents for a consideration wholly or partly other than cash, the amount of the consideration other than cash received by the Corporation shall be deemed to be the fair market value of such consideration as determined reasonably and in good faith by the Board of Directors of the Corporation.

(C) In case Series B Preferred Stock shall be deemed to have been issued upon the issuance by the Corporation of any right to acquire such Series B Preferred Stock in connection with the issue or sale of other securities or assets of the Corporation, together comprising one integrated transaction, such rights shall be deemed to have been issued for such portion of the consideration received as may be reasonably determined in good faith by the Board of Directors to be allocable thereto.

(D) Consideration received by the Corporation for issuance of its Series B Preferred Stock shall be determined in all cases without deduction therefrom of any expenses, underwriting commissions or concessions incurred in connection therewith which are reasonable and customary with respect to that particular transaction.

(ii) Exceptions to Anti-Dilution. Anything herein notwithstanding, no adjustments in the number of shares of Series B Preferred Stock deliverable upon conversion of the Series C Preferred Stock as set forth in Section 4(b)(i) shall be made by reason of or in connection with (1) the issuance of options for up to ten percent (10%) of the Corporation's capitalization as of the date hereof issued to employees of the Corporation, and (2) the issuance of Series B Preferred Stock pursuant to the Series B Subscription Agreement.

(iii) Changes in Series B Preferred Stock; Capital Reorganization or Reclassification. If the Corporation shall subdivide the outstanding shares of Series B Preferred Stock into a greater number of shares of Series B Preferred Stock or combine the outstanding shares of Series B Preferred Stock into a lesser number of shares, or issue additional shares of Series B Preferred Stock as a

dividend or other distribution on its Series B Preferred Stock (other a dividend provided for in Section 2 of Part F), or reorganize or reclassify its shares of Series B Preferred Stock into any other shares of the Corporation, the number of shares of Series B Preferred Stock or other shares of the Corporation into which each share of Series C Preferred Stock may be converted immediately prior thereto shall be adjusted so that the holder of the shares of Series C Preferred Stock thereafter surrendered for conversion shall be entitled to receive for each share of Series C Preferred Stock the number of shares of Series B Preferred Stock or other shares of the Corporation which such holder would have owned or been entitled to receive after the happening of any of the events described above if such holder's Series C Preferred Stock had been converted into Series B Preferred Stock immediately prior to the happening of such event, such adjustment to become effective concurrently with effectiveness of such event.

(iv) Merger, Consolidation or Sale of Assets. If there shall be a merger or consolidation of the Corporation with or into another corporation (other than a merger or reorganization involving only a change in the state of incorporation of the Corporation or the acquisition by the Corporation of other businesses where the Corporation survives as a going concern), or the sale of all or substantially all of the Corporation's capital stock or assets to any other person to which the provisions of Section 4(b)(i) do not apply, then as a part of such transaction, provision shall be made so that the holders of the Series C Preferred Stock shall thereafter be entitled to receive upon conversion of the Series C Preferred Stock the number of shares of stock or other securities or property of the Corporation, or of the successor corporation resulting from the merger, consolidation or sale, to which such holder would have been entitled if such holder had converted its shares of Series C Preferred Stock into shares of Series B Preferred Stock immediately prior thereto. In any such case, appropriate adjustment shall be made in the application of the provisions of this Section 4 to the end that the provisions of this Section 4 shall be applicable after that event in as nearly equivalent a manner as may be practicable.

(c) Notice of Adjustments. Upon any adjustment of the Series C Conversion Price or the number of shares of Series B Preferred Stock into which Series C Preferred Stock may be converted, then in each such case the Corporation shall give written notice thereof within thirty (30) days of the occurrence of the adjustment, addressed to each registered holder of Series C Preferred Stock at the address of such holder as shown on the records of the Corporation. Such notice shall state the Series C Conversion Price resulting from such adjustment and the increase or decrease, if any, in the number or shares of Series B Preferred Stock issuable upon the conversion of Series C Preferred Stock, setting forth in reasonable detail the method of calculation and the facts upon which such calculation is based.

(d) Exercise of Conversion Privilege. To exercise its conversion privilege, a holder of Series C Preferred Stock shall surrender the certificate or certificates representing the shares being converted to the Corporation at its principal office, and shall give written notice to the Corporation at that office that such holder elects to convert such shares. The certificate or certificates for shares of Series C Preferred Stock

surrendered for conversion shall be accompanied by proper assignment thereof to the Corporation or in blank. As promptly as practicable after the date when such written notice is received by the Corporation (each, a "Series C Conversion Date"), the Corporation shall issue and shall deliver to the holder of the shares of Series C Preferred Stock being converted, or on its written order, such certificate or certificates as it may request for the number of shares of Series B Preferred Stock and Series C Redeemable Stock issuable upon the conversion of such shares of Series C Preferred Stock in accordance with the provisions of this Section 4, including shares of Series B Preferred Stock and Series C Redeemable Stock for all unpaid dividends on such shares of Series C Preferred Stock, up to and including the applicable Series C Conversion Date. Such conversion shall be deemed to have been effected immediately prior to the close of business on the applicable Series C Conversion Date, and at such time the rights of the holder as holder of the converted shares of Series C Preferred Stock shall cease and the person(s) in whose name(s) any certificate(s) for shares of Series C Redeemable Stock and Series B Preferred Stock shall be issuable shall be deemed to have become the holder or holders of record of the shares of Series C Redeemable Stock and Series B Preferred Stock represented thereby.

(e) Automatic Conversion. The Series C Preferred Stock shall automatically convert into the securities contemplated by Section 4(a) hereof on the earlier to occur of a Series C Automatic Conversion Event. On or after the date of occurrence of a Series C Automatic Conversion Event, and in any event within ten (10) days after receipt of notice, by mail, postage prepaid from the Corporation of the occurrence of such event, each holder of record of shares of Series C Preferred Stock shall surrender such holder's certificates evidencing such shares at the principal office of the Corporation or at such other place as the Corporation shall designate, and shall thereupon be entitled to receive certificates evidencing the number of shares of Series B Preferred Stock and Series C Redeemable Stock into which such shares of Series C Preferred Stock are converted. On the date of the occurrence of a Series C Automatic Conversion Event, each holder of record of shares of Series C Preferred Stock shall be deemed to be the holder of record of the shares of Series B Preferred Stock and Series C Redeemable Stock issuable upon such conversion and no shares of Series C Preferred Stock shall be considered outstanding, without any further action by the holders of such shares and whether or not the certificates representing such shares of Series C Preferred Stock are surrendered to the Corporation or its transfer agent.

Section 5. Covenants / Restrictions and Limitations.

(a) Amendment of Corporate Documents. The Corporation shall not, for so long as any shares of Series C Preferred Stock are outstanding, take any corporate action or otherwise amend its Articles of Incorporation without the approval by vote or written consent of the holders of at least a majority of the then outstanding shares of Series C Preferred Stock if such corporate action or amendment would change any of the rights, preferences, privileges or limitations provided for herein for the benefit of any shares of Series C Preferred Stock or materially adversely affect the rights of the holders of Series C Preferred Stock.

(b) Termination of Restrictions. The provisions of Section 5(a) shall terminate upon the redemption or cancellation of all shares of Series C Redeemable Stock.

(c) Reservation of Stock.

(i) The Corporation shall at all times reserve and keep available out of its authorized but unissued Series B Preferred Stock and Series C Redeemable Stock the full number of shares of Series B Preferred Stock and Series C Redeemable Stock deliverable upon the conversion of all the then outstanding shares of Series C Preferred Stock and shall take all such action and obtain all such permits or orders as may be necessary to enable the Corporation lawfully to issue such Series B Preferred Stock and Series C Redeemable Stock upon the conversion of Series C Preferred Stock.

(ii) The Corporation shall at all times reserve and keep available out of its authorized but unissued Series C Preferred Stock a sufficient number of shares of Series C Preferred Stock necessary to fulfill its obligation with respect to the issuance of additional shares of Series C Preferred Stock, including but not limited to pursuant to Section 2(a) hereof.

(d) No Dilution or Impairment. The Corporation will not, by amendment of its Articles of Incorporation or through any reorganization, transfer of capital stock or assets, consolidation, merger, dissolution, issuance or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of Series C Preferred Stock set forth herein, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such action as may be necessary or appropriate in order to protect the rights of the holders of Series C Preferred Stock against dilution or other impairment. Without limiting the generality of the foregoing, the Corporation (a) will not increase the par value of any shares of stock receivable on the conversion of Series C Preferred Stock above the amount payable therefor on such conversion, and (b) will take all such action as may be necessary or appropriate in order that the Corporation may validly and legally issue fully paid and nonassessable shares of Series B Preferred Stock and Series C Redeemable Stock on the conversion of all Series C Preferred Stock from time to time outstanding.

(e) Notices of Record Date. In the event of

(i) any taking by the Corporation of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend or other distribution, or any right to subscribe for, purchase or otherwise acquire any shares of capital stock of any class or any other securities or property, or to receive any other right, or

(ii) any capital reorganization of the Corporation, any reclassification or recapitalization of the capital stock of the Corporation, any merger or consolidation of the Corporation, or any transfer of all or substantially all of the assets of the Corporation to any other Corporation, or any other entity or person, or

(iii) any voluntary or involuntary dissolution, liquidation or winding up of the Corporation,

then and in each such event the Corporation shall deliver or cause to be delivered to each holder of Series C Preferred Stock a notice specifying (i) the date on which any such record is to be taken for the purpose of such dividend, distribution or right and a description of such dividend, distribution or right, (ii) the date on which any such reorganization, reclassification, recapitalization, transfer, consolidation, merger, dissolution, liquidation or winding up is expected to become effective, and (iii) the time, if any, that is to be fixed, as to when the holders of record of Common Stock (or other securities) shall be entitled to exchange their shares of Common Stock (or other securities) for securities or other property deliverable upon such reorganization, reclassification, recapitalization, transfer, consolidation, merger, dissolution, liquidation or winding up. Such notice shall be delivered by facsimile transmission, hand delivery or overnight courier service to the holders of Series C Preferred Stock at the address given to the Corporation, for notice purposes, at least ten (10) days prior to the date specified in such notice on which such action is to be taken, except in the case of an involuntary dissolution, which notice shall be provided within three (3) days following the date upon which the Corporation receives notice of such event.

(f) No Reissuance of Series C Preferred Stock. No share or shares of Series C Preferred Stock acquired by the Corporation by reason of redemption, purchase, conversion or otherwise shall be reissued, and all such shares shall be cancelled, retired and eliminated from the shares which the Corporation shall be authorized to issue.

(g) Information. So long as any shares of Series C Preferred Stock are outstanding, the Corporation shall furnish to the holder of the Series C Preferred Stock, or their representatives, the following information with respect to the Corporation and its operations:

(i) Within thirty days (30) after the end of each month, monthly and year to date financial reports detailing the income statement, balance sheet and cash flow statements of operations. The income statement shall detail operating performance versus plan and prior year's operating performance.

(ii) Within ninety days (90) of the end of each fiscal year, audited financial statements, audited by a "Big Five" accounting firm.

(iii) Thirty days (30) prior to the beginning of each fiscal year, an annual budget.

All financial information shall be presented in a consolidated and consolidating format.

(h) Certain Taxes. The Corporation shall pay any issue or transfer taxes payable in connection with the conversion of Series C Preferred Stock, provided, however, that the corporation shall not be required to pay any tax which may be payable in respect of any transfer to a name other than that of the holder of Series C Preferred Stock.

(i) Closing of Books. The Corporation shall at no time close its transfer books against the transfer of any Series C Preferred Stock or of any shares of Series B Preferred Stock or Series C Redeemable Stock issued or issuable upon the conversion of any shares of Series C Preferred Stock in any manner which interferes with the timely conversion or transfer of Series C Preferred Stock, Series B Preferred Stock or Series C Redeemable Stock.

Part E. Series C Redeemable Stock

The preferences, privileges and restrictions granted to or imposed on the Corporation's Series C Redeemable Stock, or the holders thereof, are as follows:

Section 1. General.

(a) Limited Rights. Other than with respect to the approval rights set forth in Section 1(b) hereof and in Section 5(b) of Part D of this Article IV, the dividends payable pursuant to Section 2 hereof, the liquidation rights set forth in Section 3 hereof and the redemption rights set forth in Section 4 hereof, the Series C Redeemable Stock shall have no other preferences or rights vis-à-vis the holders of the Corporation's Common Stock.

(b) Amendment of Corporate Documents. The Corporation shall not, for so long as any shares of Series C Redeemable Stock are outstanding, take any corporate action or otherwise amend its *Articles of Incorporation* without the approval by vote or written consent of the holders of at least a majority of the then outstanding shares of Series C Redeemable Stock if such corporate action or amendment would change any of the rights, preferences, privileges or limitations provided for herein for the benefit of any shares of Series C Redeemable Stock or materially adversely affect the rights of the holders of Series C Redeemable Stock. In any case in which an affirmative vote of the holders of record of a proportion of the Series C Redeemable Stock is required under the provisions of this Section 1(b), the written consent (which may be in the form of a written consent action pursuant to the Act or in another form evidencing such consent) of the holders of record of such proportion of the shares of Series C Redeemable Stock shall be deemed equivalent to such a vote.

Section 2. Dividends.

(a) Computation of Preferred Cumulative Dividends. The holders of the outstanding shares of Series C Redeemable Stock shall be entitled to receive cumulative dividends, on each share of Series C Redeemable Stock, at the annual rate of ten percent (10%) of the Series C Per Share Price per annum. The Corporation shall pay such dividends in shares of Series C Redeemable Stock valued at the Series C Per Share Price, unless the Board of Directors shall declare and pay such dividends in cash out of funds legally available therefor. Such dividends shall accrue quarterly on each share of Series C Redeemable Stock from the date of original issuance of such share upon conversion from Series C Preferred Stock, whether or not earned or declared, and shall accrue on each such share until (i) such share is redeemed pursuant to Section 4 of this Part C, or (ii) paid in any distribution of the assets of the Corporation with respect to any liquidation, dissolution or winding up of the Corporation.

(b) Priority of Dividends. The shares of Series C Redeemable Stock shall be preferred as to payment of dividends over the Common Stock, the Series A Preferred Stock, the Series A Redeemable Stock, the Series B Preferred Stock and the Series B Redeemable Stock, all as provided in this Section 2. The right of the shares of Series C Redeemable Stock to payment of dividends shall be on a *pari passu* basis with the shares of Series C Preferred Stock, and shall be junior to the right of the Series D Preferred Stock and the Series D Redeemable Stock to payment of dividends.

(c) Adjustments. The amounts to be paid or set aside for payment as provided above in this Section 2 shall be proportionately increased or decreased in inverse relation to the change in the number of outstanding shares resulting from any Recapitalization Event involving a change in the terms of the Series C Redeemable Stock.

Section 3. Liquidation Preferences.

(a) Computation of Preferred Liquidation Rights. In the event of any liquidation, dissolution, or winding up of the Corporation, whether voluntary or involuntary, or in the event of its insolvency, the holders of Series C Redeemable Stock shall be entitled to have set apart for them, or to be paid, out of the assets of the Corporation available for distribution to stockholders, and before any distribution or payment is made to any holders of any shares of Common Stock or any other class or series of capital stock of the Corporation (other than the holders of the Series C Preferred Stock as provided in Section 3(b) of Part D), but after all distributions and payments to be made to the holders of Series D Preferred Stock and Series D Redeemable Stock, an amount equal to the Series C Per Share Price (which amount shall be subject to equitable adjustment in the event of a Recapitalization Event involving a change in the capital structure of the Corporation with respect to the Series C Redeemable Stock) plus all accrued and unpaid dividends thereon, whether or not earned or declared, up to and including the date full payment shall be tendered to the holders of Series C Redeemable Stock with respect to such liquidation, dissolution or winding up.

(b) Priority. The shares of Series C Redeemable Stock shall be preferred as to distributions in the event of any liquidation, dissolution, or winding up of the Corporation, whether voluntary or involuntary, or in the event of its insolvency, over the Common Stock, the Series A Preferred Stock, the Series A Redeemable Stock, the Series B Preferred Stock and the Series B Redeemable Stock, but shall be junior to the right to distributions of the Series C Preferred Stock (other than as provided in Section 3(c) of Part B) and the Series C Redeemable Stock. If, upon any liquidation, dissolution, or winding up of the Corporation, whether voluntary or involuntary, the assets legally available for distribution among the holders of Series C Preferred Stock and Series C Redeemable Stock shall be insufficient to permit payment to such holders of the full preferential amounts as provided for above and in Section 3 of Part D, then such holders shall share ratably in any distribution of available assets according to the respective amounts which would otherwise be payable with respect to the shares of Series C Preferred Stock and Series C Redeemable Stock held by them upon such liquidating distribution if all amounts payable on or with respect to said shares were paid in full, based upon the aggregate liquidation value of the Series C Preferred Stock and the Series C Redeemable Stock.

(c) Deemed Liquidation. For purposes of this Section 3, any of the following transactions shall be deemed to be a liquidation, dissolution or winding up: (1) a consolidation or merger of the Corporation with or into any other corporation or corporations, (2) a sale or other disposition of all or substantially all of the assets of the Corporation, except with respect to an Organic Transaction which results in the automatic conversion of the Series C Preferred Stock into shares of Series B Preferred Stock pursuant to Section 4(e) of Part E, and (3) the issuance and/or sale by the Corporation of shares of Common Stock (or securities convertible into shares of Common Stock) in a single or integrated transaction constituting a majority of the shares of Common Stock outstanding immediately following such issuance (treating all securities convertible into shares of Common Stock as having been fully converted and all options and other rights to acquire shares of Common Stock or securities convertible into shares of Common Stock as having been fully exercised); provided, however, that none of the foregoing transactions shall be deemed to be a liquidation, dissolution or winding up for purposes of this paragraph unless an election to do so shall have been approved by an affirmative vote of holders of record of a majority of the shares of Series C Preferred Stock and Series C Redeemable Stock then outstanding.

Section 4. Redemption. Each issued and outstanding share of the Series C Redeemable Stock shall be redeemed by the Corporation at the liquidation price set forth in Section 3(a) hereof on the earlier to occur of (i) the closing date an Organic Transaction, (ii) a Qualifying IPO, or (iii) the Mandatory Redemption Date.

Part F. Series B Redeemable Convertible Preferred Stock. The preferences, privileges and restrictions granted to or imposed on the Corporation's Series B Redeemable Convertible Preferred Stock, no par value per share, or the holders thereof, are as follows:

Section 1. Voting Rights.

(a) General. Except as may be otherwise required by law or by these Articles of Incorporation, the holders of Series B Preferred Stock shall vote together with all other classes and series of stock of the Corporation, and not as a separate class or series, on all actions to be taken by the shareholders of the Corporation and shall have such additional voting rights as provided in these Articles of Incorporation or provided by law. Each share of Series B Preferred Stock shall entitle the holder thereof to such number of votes per share on each such action as shall equal the number of shares of Common Stock (including fractions of a share) into which each share of such Series B Preferred Stock is then convertible on the record date for the determination of the shareholders entitled to vote on such matters, or, if no such record date is established, in accordance with the Act.

(b) Written Consent. Except as otherwise required by law, in any case in which an affirmative vote of the holders of record of a proportion of the Series B Preferred Stock is required under these Articles of Incorporation, the written consent (which may be in the form of a written consent action pursuant to the Act or in another form evidencing such consent) of the holders of record of such proportion of the shares of Series B Preferred Stock shall be deemed equivalent to such a vote.

Section 2. Dividends.

(a) Computation of Preferred Cumulative Dividends. The holders of the outstanding shares of Series B Preferred Stock shall be entitled to receive cumulative dividends, on each share of Series B Preferred Stock, at the annual rate of ten percent (10%) of the Series B Per Share Price per annum. The Corporation shall pay such dividends in shares of Series B Preferred Stock valued at the Series B Per Share Price, unless the Board of Directors shall declare and pay such dividends in cash out of funds legally available therefor. Such dividends shall accrue quarterly on each share of Series B Preferred Stock from the date of original issuance of such share, whether or not earned or declared, and shall accrue until (i) such share is converted pursuant to Section 4 of this Part F, or (ii) paid in any distribution of the assets of the Corporation with respect to any liquidation, dissolution or winding up of the Corporation.

(b) Priority of Dividends. The shares of Series B Preferred Stock shall be preferred as to payment of dividends over the Common Stock, the Series A Preferred Stock and the Series A Redeemable Stock, all as provided in this Section 2. The right of the shares of Series B Preferred Stock to payment of dividends shall be on a *pari passu* basis with the shares of Series B Redeemable Stock, and shall be junior to the right of the Series C Preferred Stock, the Series C Redeemable Stock, the Series D Preferred Stock and the Series D Redeemable Stock to payment of dividends.

(c) Adjustments. The amounts to be paid or set aside for payment as provided above in this Section 2 shall be proportionately increased or decreased in inverse relation to the change in the number of outstanding shares resulting from any Recapitalization Event involving a change in the terms of the Series B Preferred Stock.

(d) Computation of Participating Dividends. Following full payment of all accrued preferred dividends on the Series D Preferred Stock, the Series D Redeemable Stock, the Series C Preferred Stock, the Series C Redeemable Stock, the Series B Preferred Stock, the Series B Redeemable Stock, the Series A Preferred Stock and the Series A Redeemable Stock, in each case whether in stock or in cash, the holders of the Series B Preferred Stock shall share ratably with the holders of Series A Preferred Stock, Series C Preferred Stock, Series D Preferred Stock and Common Stock, in each case other than with respect to the Common Stock, on an as-converted to Common Stock basis, in any regular dividends declared by the Corporation.

Section 3. Liquidation Preferences.

(a) Computation of Preferred Liquidation Rights. In the event of any liquidation, dissolution, or winding up of the Corporation, whether voluntary or involuntary, or in the event of its insolvency, the holders of Series B Preferred Stock shall be entitled to have set apart for them, or to be paid, out of the assets of the Corporation available for distribution to stockholders, and before any distribution or payment is made to any holders of any shares of Common Stock or any other class or series of capital stock of the Corporation (other than the holders of the Series B Redeemable Stock as provided in Section 3(b) below), but after all distributions and payments to be made to the holders of any shares of Series C Preferred Stock, Series C Redeemable Stock, Series D Preferred

Stock or Series D Redeemable Stock, an amount equal to the Series B Per Share Price (which amount shall be subject to equitable adjustment in the event of a Recapitalization Event involving a change in the capital structure of the Corporation with respect to the Series B Preferred Stock) plus all accrued and unpaid dividends thereon, whether or not earned or declared, up to and including the date full payment shall be tendered to the holders of Series B Preferred Stock with respect to such liquidation, dissolution or winding up.

(b) Priority. The shares of Series B Preferred Stock shall be preferred as to distributions in the event of any liquidation, dissolution, or winding up of the Corporation, whether voluntary or involuntary, or in the event of its insolvency, over the Common Stock, the Series A Preferred Stock and the Series A Redeemable Stock, but shall be junior to the right to distributions of the Series C Preferred Stock (other than as provided in Section 3(c) of Part B), the Series D Preferred Stock (other than as provided in Section 3(c) of Part B), the Series C Redeemable Stock and the Series C Redeemable Stock. If, upon any liquidation, dissolution, or winding up of the Corporation, whether voluntary or involuntary, the assets legally available for distribution among the holders of Series B Preferred Stock and Series B Redeemable Stock shall be insufficient to permit payment to such holders of the full preferential amounts as provided for above and in Section 4 of Part G, then such holders shall share ratably in any distribution of available assets according to the respective amounts which would otherwise be payable with respect to the shares of Series B Preferred Stock and Series B Redeemable Stock held by them upon such liquidating distribution if all amounts payable on or with respect to said shares were paid in full, based upon the aggregate liquidation value of the Series B Preferred Stock and the Series B Redeemable Stock.

(c) Deemed Liquidation. For purposes of this Section 3, any of the following transactions shall be deemed to be a liquidation, dissolution or winding up: (1) a consolidation or merger of the Corporation with or into any other corporation or corporations, (2) a sale or other disposition of all or substantially all of the assets of the Corporation, except with respect to an Organic Transaction which results in the automatic conversion of the Series B Preferred Stock into shares of Common Stock pursuant to Section 4(e) of this Part F, and (3) the issuance and/or sale by the Corporation of shares of Common Stock (or securities convertible into shares of Common Stock) in a single or integrated transaction constituting a majority of the shares of Common Stock outstanding immediately following such issuance (treating all securities convertible into shares of Common Stock as having been fully converted and all options and other rights to acquire shares of Common Stock or securities convertible into shares of Common Stock as having been fully exercised); provided, however, that none of the foregoing transactions shall be deemed to be a liquidation, dissolution or winding up for purposes of this paragraph unless an election to do so shall have been approved by an affirmative vote of holders of record of a majority of the shares of Series B Preferred Stock and Series B Redeemable Stock then outstanding.

Section 4. Conversion Rights.

(a) General. Subject to the terms and conditions set forth in this Section 4, each holder of record of any share of Series B Preferred Stock may, at any time, upon

surrender to the Corporation of the certificate(s) therefor at the principal office of the Corporation or at such other place as the Corporation shall designate, convert all or any part of such holder's share(s) of Series B Preferred Stock. Upon any conversion pursuant to this Section 4(a), each share of Series B Preferred Stock to be converted shall be converted into (i) one (1) fully paid and non-assessable share of Series B Redeemable Preferred Stock and (ii) that number of fully paid and non-assessable shares of Common Stock determined by dividing the Series B Per Share Price by the then effective Series B Conversion Price, as adjusted pursuant to Subsection (b) of this Section 4, in effect as of the effective date of such conversion. The initial "Series B Conversion Price" shall be the Series B Per Share Price.

(b) Adjustments. The number of shares of Common Stock into which each share of Series B Preferred Stock may be converted shall be subject to the following adjustments, any or all of which may be waived with respect to the occurrence of an event giving rise to such an adjustment by the unanimous vote of the CHL Preferred Directors and the CMS Preferred Director:

(i) Upon Issuances of Common Stock or Common Stock Equivalents. If the Corporation shall issue or sell any shares of its Common Stock or any Common Stock Equivalents, except as set forth more particularly in Section 4(b)(ii), at a price per share which is less than the Series B Conversion Price in effect immediately prior to such issuance or sale, then in each case the Series B Conversion Price shall be reduced, upon such issuance or sale, to a price equal to the lowest per share price at which any share of Common Stock or Common Stock equivalents was sold in issuance or sale.

(A) For the purposes of this Section 4(b)(i), if the Corporation shall issue or sell any Common Stock Equivalents (except as set forth more particularly in Section 4(b)(ii)), the maximum total number of shares of Common Stock issuable upon exercise of such rights or the exchange and conversion of such Common Stock Equivalents shall thereupon be deemed to have been issued and to be outstanding, and the consideration received by the Corporation therefor shall be deemed to include the sum of the consideration received for the issue of such rights and the minimum additional consideration payable upon the exercise of such rights or the exchange and conversion of such Common Stock Equivalents. No further adjustment of the Series B Conversion Price adjusted upon the issuance of such rights shall be made as a result of the actual issuance of shares of Common Stock on the exercise of any such rights or the exchange and conversion of such Common Stock Equivalents. If the provisions of any rights described in this Section 4(b)(i) with respect to the purchase price of shares of Common Stock or the number of shares purchasable shall change or expire or if the purchase price thereunder shall decrease or the number of shares purchasable thereunder increase, any adjustment previously made hereunder for such rights with respect to Series B Preferred Stock not yet converted shall be readjusted as of the date of issuance of such rights to such as would have obtained on the basis of the

rights as modified by such change or expiration (except for the operation of any anti-dilutive provisions thereof).

(B) In case the Corporation shall issue shares of its Common Stock or Common Stock Equivalents for a consideration wholly or partly other than cash, the amount of the consideration other than cash received by the Corporation shall be deemed to be the fair market value of such consideration as determined reasonably and in good faith by the Board of Directors of the Corporation.

(C) In case Common Stock shall be deemed to have been issued upon the issuance by the Corporation of any right to acquire such Common Stock in connection with the issue or sale of other securities or assets of the Corporation, together comprising one integrated transaction, such rights shall be deemed to have been issued for such portion of the consideration received as may be reasonably determined in good faith by the Board of Directors to be allocable thereto.

(D) Consideration received by the Corporation for issuance of its Common Stock shall be determined in all cases without deduction therefrom of any expenses, underwriting commissions or concessions incurred in connection therewith which are reasonable and customary with respect to that particular transaction.

(ii) Exceptions to Anti-Dilution. Anything herein notwithstanding, no adjustments in the number of shares of Common Stock deliverable upon conversion of the Series B Preferred Stock as set forth in Section 4(b)(i) shall be made by reason of or in connection with (1) the issuance of options for up to ten percent (10%) of the Corporation's capitalization as of the date hereof issued to employees of the Corporation, (2) the issuance of shares of Common Stock to Frontenac Financial Group, Inc. in connection with the consummation of the Preferred Stock Purchase Agreement dated February 4, 2002 between the Corporation and CHL, CHL Side Fund and the Steffy Family Trust (the "Preferred Stock Purchase Agreement"); (3) the issuance of Common Stock to Manuel Taracido by reason of the exercise of the options contained in the Warrants issued to Taracido in connection with Taracido's loan to the corporation on January 29, 2002; and (4) the issuance of shares of Common Stock to CHL or CHL Side Fund by reason of the exercise of options contained in the Warrants issued to CHL and CHL Side Fund pursuant to the Stock Purchase and Bridge Loan, Agreement dated February 4, 2002 between the Corporation, CHL and CHL Side Fund; (5) the issuance of Series A Preferred Stock pursuant to the Preferred Stock Purchase Agreement; (6) the issuance of Series A Preferred Stock pursuant to the Adoption and Stock Purchase Agreement; and (7) the issuance of Common Stock by reason of the exercise of the options contained in the Warrants to holders of Common Stock in connection with the Subscription Agreement.

(iii) Changes in Common Stock; Capital Reorganization or Reclassification. If the Corporation shall subdivide the outstanding shares of

Common Stock into a greater number of shares of Common Stock or combine the outstanding shares of Common Stock into a lesser number of shares, or issue additional shares of Common Stock as a dividend or other distribution on its Common Stock, or reorganize or reclassify its shares of Common Stock into any other shares of the Corporation, the number of shares of Common Stock into which each share of Series B Preferred Stock may be converted immediately prior thereto shall be adjusted so that the holder of the shares of Series B Preferred Stock thereafter surrendered for conversion shall be entitled to receive for each share of Series B Preferred Stock the number of shares of Common Stock which such holder would have owned or been entitled to receive after the happening of any of the events described above if such holder's Series B Preferred Stock had been converted into Common Stock immediately prior to the happening of such event, such adjustment to become effective concurrently with effectiveness of such event.

(iv) Merger, Consolidation or Sale of Assets. If there shall be a merger or consolidation of the Corporation with or into another corporation (other than a merger or reorganization involving only a change in the state of incorporation of the Corporation or the acquisition by the Corporation of other businesses where the Corporation survives as a going concern), or the sale of all or substantially all of the Corporation's capital stock or assets to any other person to which the provisions of Section 4(b)(i) do not apply, then as a part of such transaction, provision shall be made so that the holders of the Series B Preferred Stock shall thereafter be entitled to receive upon conversion of the Series B Preferred Stock the number of shares of stock or other securities or property of the Corporation, or of the successor corporation resulting from the merger, consolidation or sale, to which such holder would have been entitled if such holder had converted its shares of Series B Preferred Stock immediately prior thereto. In any such case, appropriate adjustment shall be made in the application of the provisions of this Section 4 to the end that the provisions of this Section 4 shall be applicable after that event in as nearly equivalent a manner as may be practicable.

(c) Notice of Adjustments. Upon any adjustment of the Series B Conversion Price or the number of shares of Common Stock into which Series B Preferred Stock may be converted, then in each such case the Corporation shall give written notice thereof within thirty (30) days of the occurrence of the adjustment, addressed to each registered holder of Series B Preferred Stock at the address of such holder as shown on the records of the Corporation. Such notice shall state the Series B Conversion Price resulting from such adjustment and the increase or decrease, if any, in the number or shares of Common Stock issuable upon the conversion of Series B Preferred Stock, setting forth in reasonable detail the method of calculation and the facts upon which such calculation is based.

(d) Exercise of Conversion Privilege. To exercise its conversion privilege, a holder of Series B Preferred Stock shall surrender the certificate or certificates representing the shares being converted to the Corporation at its principal office, and shall give written notice to the Corporation at that office that such holder elects to convert such shares. The certificate or certificates for shares of Series B Preferred Stock

surrendered for conversion shall be accompanied by proper assignment thereof to the Corporation or in blank. As promptly as practicable after the date when such written notice is received by the Corporation (the "Series B Conversion Date"), the Corporation shall issue and shall deliver to the holder of the shares of Series B Preferred Stock being converted, or on its written order, such certificate or certificates as it may request for the number of whole shares of Common Stock and Series B Redeemable Stock issuable upon the conversion of such shares of Series B Preferred Stock in accordance with the provisions of this Section 4, including shares of Common Stock and Series B Redeemable Stock for all unpaid dividends on such shares of Series B Preferred Stock, up to and including the Series B Conversion Date, and cash, as provided in Section 4(f), in respect of any fraction of a share of Common Stock issuable upon such conversion. Such conversion shall be deemed to have been effected immediately prior to the close of business on the Series B Conversion Date, and at such time the rights of the holder as holder of the converted shares of Series B Preferred Stock shall cease and the person(s) in whose name(s) any certificate(s) for shares of Common Stock and Series B Redeemable Stock shall be issuable shall be deemed to have become the holder or holders of record of the shares of Common Stock and Series B Redeemable Stock represented thereby.

(e) Automatic Conversion. The Series B Preferred Stock shall automatically convert into the securities contemplated by Section 4(a) hereof on the earlier to occur of a Series B Automatic Conversion Event. On or after the date of occurrence of a Series B Automatic Conversion Event, and in any event within ten (10) days after receipt of notice, by mail, postage prepaid from the Corporation of the occurrence of such event, each holder of record of shares of Series B Preferred Stock shall surrender such holder's certificates evidencing such shares at the principal office of the Corporation or at such other place as the Corporation shall designate, and shall thereupon be entitled to receive certificates evidencing the number of shares of Common Stock and Series B Redeemable Stock into which such shares of Series B Preferred Stock are converted. On the date of the occurrence of a Series B Automatic Conversion Event, each holder of record of shares of Series B Preferred Stock shall be deemed to be the holder of record of the shares of Common Stock and Series B Redeemable Stock issuable upon such conversion and no shares of Series B Preferred Stock shall be considered *outstanding*, without any further action by the holders of such shares and whether or not the certificates representing such shares of Series B Preferred Stock are surrendered to the Corporation or its transfer agent.

(f) Cash in Lieu of Fractional Shares. No fractional shares of Common Stock shall be issued upon the conversion of shares of Series B Preferred Stock. Instead of any fractional shares of Common Stock which would otherwise be issuable upon conversion of Series B Preferred Stock, the Corporation shall pay to the holder of the shares of Series B Preferred Stock which were converted a cash adjustment in respect of such fractional shares in an amount equal to the same fraction of the fair market value per share of the Common Stock (as determined in a reasonable manner prescribed by the Board of Directors) at the close of business on the Series B Conversion Date.

Section 5. Covenants / Restrictions and Limitations.

(a) Amendment of Corporate Documents. The Corporation shall not, for so long as any shares of Series B Preferred Stock are outstanding, take any corporate action or otherwise amend its Articles of Incorporation without the approval by vote or written consent of the holders of at least a majority of the then outstanding shares of Series B Preferred Stock if such corporate action or amendment would change any of the rights, preferences, privileges or limitations provided for herein for the benefit of any shares of Series B Preferred Stock or materially adversely affect the rights of the holders of Series B Preferred Stock.

(b) Termination of Restrictions. The provisions of Section 5(a) shall terminate upon the redemption or cancellation of all shares of Series B Redeemable Stock.

(c) Reservation of Stock.

(i) The Corporation shall at all times reserve and keep available out of its authorized but unissued Common Stock and Series B Redeemable Stock the full number of shares of Common Stock and Series B Redeemable Stock deliverable upon the conversion of all the then outstanding shares of Series B Preferred Stock and shall take all such action and obtain all such permits or orders as may be necessary to enable the Corporation lawfully to issue such Common Stock and Series B Redeemable Stock upon the conversion of Series B Preferred Stock.

(ii) The Corporation shall at all times reserve and keep available out of its authorized but unissued Series B Preferred Stock a sufficient number of shares of Series B Preferred Stock necessary to fulfill its obligation with respect to the issuance of additional shares of Series B Preferred Stock, including but not limited to pursuant to Section 2(a) hereof.

(d) No Dilution or Impairment. The Corporation will not, by amendment of its Articles of Incorporation or through any reorganization, transfer of capital stock or assets, consolidation, merger, dissolution, issuance or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of Series B Preferred Stock set forth herein, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such action as may be necessary or appropriate in order to protect the rights of the holders of Series B Preferred Stock against dilution or other impairment. Without limiting the generality of the foregoing, the Corporation (a) will not increase the par value of any shares of stock receivable on the conversion of Series B Preferred Stock above the amount payable therefor on such conversion, and (b) will take all such action as may be necessary or appropriate in order that the Corporation may validly and legally issue fully paid and nonassessable shares of Common Stock and Series B Redeemable Stock on the conversion of all Series B Preferred Stock from time to time outstanding.

(e) Notices of Record Date. In the event of

(i) any taking by the Corporation of a record of the holders of any class of securities for the purpose of determining the holders thereof who are

entitled to receive any dividend or other distribution, or any right to subscribe for, purchase or otherwise acquire any shares of capital stock of any class or any other securities or property, or to receive any other right, or

(ii) any capital reorganization of the Corporation, any reclassification or recapitalization of the capital stock of the Corporation, any merger or consolidation of the Corporation, or any transfer of all or substantially all of the assets of the Corporation to any other Corporation, or any other entity or person, or

(iii) any voluntary or involuntary dissolution, liquidation or winding up of the Corporation,

then and in each such event the Corporation shall deliver or cause to be delivered to each holder of Series B Preferred Stock a notice specifying (i) the date on which any such record is to be taken for the purpose of such dividend, distribution or right and a description of such dividend, distribution or right, (ii) the date on which any such reorganization, reclassification, recapitalization, transfer, consolidation, merger, dissolution, liquidation or winding up is expected to become effective, and (iii) the time, if any, that is to be fixed, as to when the holders of record of Common Stock (or other securities) shall be entitled to exchange their shares of Common Stock (or other securities) for securities or other property deliverable upon such reorganization, reclassification, recapitalization, transfer, consolidation, merger, dissolution, liquidation or winding up. Such notice shall be delivered by facsimile transmission, hand delivery or overnight courier service to the holders of Series B Preferred Stock at the address given to the Corporation, for notice purposes, at least ten (10) days prior to the date specified in such notice on which such action is to be taken, except in the case of an involuntary dissolution, which notice shall be provided within three (3) days following the date upon which the Corporation receives notice of such event.

(f) No Reissuance of Series B Preferred Stock. No share or shares of Series B Preferred Stock acquired by the Corporation by reason of redemption, purchase, conversion or otherwise shall be reissued, and all such shares shall be cancelled, retired and eliminated from the shares which the Corporation shall be authorized to issue.

(g) Information. So long as any shares of Series B Preferred Stock are outstanding, the Corporation shall furnish to the holder of the Series B Preferred Stock, or their representatives, the following information with respect to the Corporation and its operations:

(i) Within thirty days (30) after the end of each month, monthly and year to date financial reports detailing the income statement, balance sheet and cash flow statements of operations. The income statement shall detail operating performance versus plan and prior year's operating performance.

(ii) Within ninety days (90) of the end of each fiscal year, audited financial statements, audited by a "Big Five" accounting firm.

(iii) Thirty days (30) prior to the beginning of each fiscal year, an annual budget.

All financial information shall be presented in a consolidated and consolidating format.

(h) Certain Taxes. The Corporation shall pay any issue or transfer taxes payable in connection with the conversion of Series B Preferred Stock, provided, however, that the corporation shall not be required to pay any tax which may be payable in respect of any transfer to a name other than that of the holder of Series B Preferred Stock.

(i) Closing of Books. The Corporation shall at no time close its transfer books against the transfer of any Series B Preferred Stock or of any shares of Common Stock or Series B Redeemable Stock issued or issuable upon the conversion of any shares of Series B Preferred Stock in any manner which interferes with the timely conversion or transfer of Series B Preferred Stock, Common Stock or Series B Redeemable Stock.

Part G. Series B Redeemable Stock

The preferences, privileges and restrictions granted to or imposed on the Corporation's Series B Redeemable Stock, or the holders thereof, are as follows:

Section 1. General.

(a) Limited Rights. Other than with respect to the approval rights set forth in Section 1(b) hereof and in Section 5(b) of Part D of this Article IV, the dividends payable pursuant to Section 2 hereof, the liquidation rights set forth in Section 3 hereof and the redemption rights set forth in Section 4 hereof, the Series B Redeemable Stock shall have no other preferences or rights vis-à-vis the holders of the Corporation's Common Stock.

(b) Amendment of Corporate Documents. The Corporation shall not, for so long as any shares of Series B Redeemable Stock are outstanding, take any corporate action or otherwise amend its Articles of Incorporation without the approval by vote or written consent of the holders of at least a majority of the then outstanding shares of Series B Redeemable Stock if such corporate action or amendment would change any of the rights, preferences, privileges of or limitations provided for herein for the benefit of any shares of Series B Redeemable Stock or materially adversely affect the rights of the holders of Series B Redeemable Stock. In any case in which an affirmative vote of the holders of record of a proportion of the Series B Redeemable Stock is required under the provisions of this Section 1(b), the written consent (which may be in the form of a written consent action pursuant to the Act or in another form evidencing such consent) of the holders of record of such proportion of the shares of Series B Redeemable Stock shall be deemed equivalent to such a vote.

Section 2. Dividends.

(a) Computation of Preferred Cumulative Dividends. The holders of the outstanding shares of Series B Redeemable Stock shall be entitled to receive cumulative dividends, on each share of Series B Redeemable Stock, at the annual rate of ten percent (10%) of the Series B Per Share Price per annum. The Corporation shall pay such dividends in shares of Series B Redeemable Stock valued at the Series B Per Share Price, unless the Board of Directors shall declare and pay such dividends in cash out of funds legally available therefor. Such dividends shall accrue quarterly on each share of Series B Redeemable Stock from the date of original issuance of such share upon conversion from Series B Preferred Stock, whether or not earned or declared, and shall accrue on each such share until (i) such share is redeemed or cancelled pursuant to Section 4 of this Part E, or (ii) paid in any distribution of the assets of the Corporation with respect to any liquidation, dissolution or winding up of the Corporation.

(b) Priority of Dividends. The shares of Series B Redeemable Stock shall be preferred as to payment of dividends over the Common Stock, the Series A Preferred Stock and the Series A Redeemable Stock, but shall be junior to the rights to payment of dividends of the Series D Preferred Stock, the Series D Redeemable Stock, the Series C Preferred Stock and the Series C Redeemable Stock, all as provided in this Section 2. The right of the shares of Series B Redeemable Stock to payment of dividends shall be on a *pari passu* basis with the shares of Series B Preferred Stock.

(c) Adjustments. The amounts to be paid or set aside for payment as provided above in this Section 2 shall be proportionately increased or decreased in inverse relation to the change in the number of outstanding shares resulting from any Recapitalization Event involving a change in the terms of the Series B Redeemable Stock.

Section 3. Liquidation Preferences.

(a) Computation of Preferred Liquidation Rights. In the event of any liquidation, dissolution, or winding up of the Corporation, whether voluntary or involuntary, or in the event of its insolvency, the holders of Series B Redeemable Stock shall be entitled to have set apart for them, or to be paid, out of the assets of the Corporation available for distribution to stockholders, and before any distribution or payment is made to any holders of any shares of Common Stock or any other class or series of capital stock of the Corporation (other than the holders of the Series B Preferred Stock as provided in Section 3(b) of Part F), but after all distributions and payments to be made to the holders of any shares of Series D Preferred Stock, Series D Redeemable Stock, Series C Preferred Stock or Series C Redeemable Stock, an amount equal to the Series B Per Share Price (which amount shall be subject to equitable adjustment in the event of a Recapitalization Event involving a change in the capital structure of the Corporation with respect to the Series B Redeemable Stock) plus all accrued and unpaid dividends thereon, whether or not earned or declared, up to and including the date full payment shall be tendered to the holders of Series B Redeemable Stock with respect to such liquidation, dissolution or winding up.

(b) Priority. The shares of Series B Redeemable Stock shall be preferred as to distributions in the event of any liquidation, dissolution, or winding up of the Corporation, whether voluntary or involuntary, or in the event of its insolvency, over the Common Stock, the Series A Preferred Stock and the Series A Redeemable Stock, but

after all distributions to be made to the holders of any shares of Series D Preferred Stock, Series D Redeemable Stock, Series C Preferred Stock or Series C Redeemable Stock. If, upon any liquidation, dissolution, or winding up of the Corporation, whether voluntary or involuntary, the assets legally available for distribution among the holders of Series B Preferred Stock and Series B Redeemable Stock shall be insufficient to permit payment to such holders of the full preferential amounts as provided for above and in Section 3 of Part D, then such holders shall share ratably in any distribution of available assets according to the respective amounts which would otherwise be payable with respect to the shares of Series B Preferred Stock and Series B Redeemable Stock held by them upon such liquidating distribution if all amounts payable on or with respect to said shares were paid in full, based upon the aggregate liquidation value of the Series B Preferred Stock and the Series B Redeemable Stock.

(c) Deemed Liquidation. For purposes of this Section 3, any of the following transactions shall be deemed to be a liquidation, dissolution or winding up: (1) a consolidation or merger of the Corporation with or into any other corporation or corporations, (2) a sale or other disposition of all or substantially all of the assets of the Corporation, except with respect to an Organic Transaction which results in the automatic conversion of the Series B Preferred Stock into shares of Common Stock pursuant to Section 4(e) of Part F, and (3) the issuance and/or sale by the Corporation of shares of Common Stock (or securities convertible into shares of Common Stock) in a single or integrated transaction constituting a majority of the shares of Common Stock outstanding immediately following such issuance (treating all securities convertible into shares of Common Stock as having been fully converted and all options and other rights to acquire shares of Common Stock or securities convertible into shares of Common Stock as having been fully exercised); provided, however, that none of the foregoing transactions shall be deemed to be a liquidation, dissolution or winding up for purposes of this paragraph unless an election to do so shall have been approved by an affirmative vote of holders of record of a majority of the shares of Series B Preferred Stock and Series B Redeemable Stock then outstanding.

Section 4. Redemption.

(a) Each issued and outstanding share of the Redeemable Preferred Stock shall be redeemed by the Corporation at the liquidation price set forth in Section 3(a) hereof on the earlier to occur of (i) the closing date an Organic Transaction, (ii) a Qualifying IPO, or (iii) the Mandatory Redemption Date.

(b) Notwithstanding any other provision of this Section 4 to the contrary, in the event of a Qualifying IPO or Organic Transaction under which the Common Stock is valued at greater than Three Dollars (\$3.00) per share (adjusted to take into account any Recapitalization Event), then the Series B Redeemable Stock shall be cancelled on the books of the Corporation.

Part H. Series A Redeemable Convertible Preferred Stock. The preferences, privileges, and restrictions granted to or imposed on the Corporation's Series A Redeemable Convertible Preferred Stock, no par value per share, or the holders thereof, are as follows:

Section 1. Voting Rights.

(a) General. Except as may be otherwise required by law or by these Articles of Incorporation, the holders of Series A Preferred Stock shall vote together with all other classes and series of stock of the Corporation, and not as a separate class or series, on all actions to be taken by the shareholders of the Corporation and shall have such additional voting rights as provided in these Articles of Incorporation or provided by law. Each share of Series A Preferred Stock shall entitle the holder thereof to such number of votes per share on each such action as shall equal the number of shares of Common Stock (including fractions of a share) into which each share of such Series A Preferred Stock is then convertible on the record date for the determination of the shareholders entitled to vote on such matters, or, if no such record date is established, in accordance with the Act.

(b) Written Consent. Except as otherwise required by law, in any case in which an affirmative vote of the holders of record of a proportion of the Series A Preferred Stock is required under these Articles of Incorporation, the written consent (which may be in the form of a written consent action pursuant to the Act or in another form evidencing such consent) of the holders of record of such proportion of the shares of Series A Preferred Stock shall be deemed equivalent to such a vote.

Section 2. Dividends.

(a) Computation of Preferred Cumulative Dividends. The holders of the outstanding shares of Series A Preferred Stock shall be entitled to receive cumulative dividends, on each share of Series A Preferred Stock, at the annual rate of ten percent (10%) of the Series A Per Share Price per annum. The Corporation shall pay such dividends in shares of Series A Preferred Stock valued at the Series A Per Share Price, unless the Board of Directors shall declare and pay such dividends in cash out of funds legally available therefor. Such dividends shall accrue quarterly on each share of Series A Preferred Stock from the date of original issuance of such share, whether or not earned or declared, and shall accrue until (i) such share is converted pursuant to Section 4 of this Part H, or (ii) paid in any distribution of the assets of the Corporation with respect to any liquidation, dissolution or winding up of the Corporation.

(b) Priority of Dividends. The shares of Series A Preferred Stock shall be preferred as to payment of dividends over the Common Stock, all as provided in this Section 2. The right of the shares of Series A Preferred Stock to payment of dividends shall be on a *pari passu* basis with the shares of Series A Redeemable Stock, and shall be junior to the rights of the Series D Preferred Stock, the Series D Redeemable Stock, the Series C Preferred Stock, the Series C Redeemable Stock, the Series B Preferred Stock and the Series B Redeemable Stock.

(c) Adjustments. The amounts to be paid or set aside for payment as provided above in this Section 2 shall be proportionately increased or decreased in inverse relation

to the change in the number of outstanding shares resulting from any Recapitalization Event involving a change in the terms of the Series A Preferred Stock.

(d) Computation of Participating Dividends. Following full payment of all accrued preferred dividends on the Series D Preferred Stock, the Series D Redeemable Stock, the Series C Preferred Stock, the Series C Redeemable Stock, the Series B Preferred Stock, the Series B Redeemable Stock, the Series A Preferred Stock and the Series A Redeemable Stock, in each case whether in stock or in cash, the holders of the Series A Preferred Stock shall share ratably with the holders of Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock and Common Stock, in each case other than with respect to the Common Stock, on an as-converted to Common Stock basis, in any regular dividends declared by the Corporation.

Section 3. Liquidation Rights.

(a) Computation of Preferred Liquidation Rights. In the event of any liquidation, dissolution, or winding up of the Corporation, whether voluntary or involuntary, or in the event of its insolvency, the holders of Series A Preferred Stock shall be entitled to have set apart for them, or to be paid, out of the assets of the Corporation available for distribution to stockholders, and before any distribution or payment is made to any holders of any shares of Common Stock or any other class or series of capital stock of the Corporation (other than the holders of the Series A Redeemable Stock as provided in Section 3(b) below), but after all distributions and payments to be made to the holders of any shares of Series D Preferred Stock, Series D Redeemable Stock, Series C Preferred Stock, Series C Redeemable Stock, Series B Preferred Stock or Series B Redeemable Stock, an amount equal to the Series A Per Share Price (which amount shall be subject to equitable adjustment in the event of a Recapitalization Event involving a change in the capital structure of the Corporation with respect to the Series A Preferred Stock) plus all accrued and unpaid dividends thereon, whether or not earned or declared, up to and including the date full payment shall be tendered to the holders of Series A Preferred Stock with respect to such liquidation, dissolution or winding up.

(b) Priority. The shares of Series A Preferred Stock shall be preferred as to distributions in the event of any liquidation, dissolution, or winding up of the Corporation, whether voluntary or involuntary, or in the event of its insolvency, over the Common Stock, but shall be junior to the right to distributions of the Series D Preferred Stock (other than as provided in Section 3(c) of Part B), the Series D Redeemable Stock, the Series C Preferred Stock (other than as provided in Section 3(c) of Part D), the Series C Redeemable Stock, the Series B Preferred Stock and the Series B Redeemable Stock. If, upon any liquidation, dissolution, or winding up of the Corporation, whether voluntary or involuntary, the assets legally available for distribution among the holders of Series A Preferred Stock and Series A Redeemable Stock shall be insufficient to permit payment to such holders of the full preferential amounts as provided for above and in Section 4 of Part I, then such holders shall share ratably in any distribution of available assets according to the respective amounts which would otherwise be payable with respect to the shares of Series A Preferred Stock and Series A Redeemable Stock held by them upon such liquidating distribution if all amounts payable on or with respect to said shares

were paid in full, based upon the aggregate liquidation value of the Series A Preferred Stock and the Series A Redeemable Stock.

(c) Intentionally Omitted.

(d) Deemed Liquidation. For purposes of this Section 3, any of the following transactions shall be deemed to be a liquidation, dissolution or winding up: (1) a consolidation or merger of the Corporation with or into any other corporation or corporations, (2) a sale or other disposition of all or substantially all of the assets of the Corporation, except with respect to an Organic Transaction which results in the automatic conversion of the Series A Preferred Stock into shares of Common Stock pursuant to Section 4(e) of this Part H, and (3) the issuance and/or sale by the Corporation of shares of Common Stock (or securities convertible into shares of Common Stock) in a single or integrated transaction constituting a majority of the shares of Common Stock outstanding immediately following such issuance (treating all securities convertible into shares of Common Stock as having been fully converted and all options and other rights to acquire shares of Common Stock or securities convertible into shares of Common Stock as having been fully exercised); provided, however, that none of the foregoing transactions shall be deemed to be a liquidation, dissolution or winding up for purposes of this paragraph unless an election to do so shall have been approved by an affirmative vote of holders of record of a majority of the shares of Series A Preferred Stock and Series A Redeemable Stock then outstanding.

Section 4. Conversion Rights.

(a) General. Subject to the terms and conditions set forth in this Section 4, each holder of record of any share of Series A Preferred Stock may, at any time, upon surrender to the Corporation of the certificate(s) therefor at the principal office of the Corporation or at such other place as the Corporation shall designate, convert all or any part of such holder's share(s) of Series A Preferred Stock. Upon any conversion pursuant to this Section 4(a), each share of Series A Preferred Stock to be converted shall be converted into (i) one (1) fully paid and nonassessable share of Redeemable Preferred Stock and (ii) that number of fully paid and nonassessable shares of Common Stock determined by dividing the Series A Per Share Price by the then effective Series A Conversion Price, as adjusted pursuant to Subsection (b) of this Section 4, in effect as of the effective date of such conversion. The initial "Series A Conversion Price" shall be the Series A Per Share Price. As of September 30, 2003, as a result of the issuance of the Series B Preferred Stock and the Series C Preferred Stock, the Series A Conversion Price has been adjusted pursuant to Subsection (b) of this Section 4 to \$0.15 per share.

(b) Adjustments. The number of shares of Common Stock into which each share of Series A Preferred Stock may be converted shall be subject to the following adjustments, any or all of which may be waived with respect to the occurrence of an event giving rise to such an adjustment by the unanimous vote of the CHL Preferred Directors and the CMS Director:

(i) Upon Issuances of Common Stock or Common Stock Equivalents. If the Corporation shall issue or sell any shares of its Common

Stock or any Common Stock Equivalents, except as set forth more particularly in Section 4(b)(ii), at a price per share which is less than the Series A Conversion Price in effect immediately prior to such issuance or sale, then in each case the Series A Conversion Price shall be reduced, upon such issuance or sale, to a price equal to the lowest per share price at which any share of Common Stock or Common Stock Equivalents was sold in issuance or sale.

(A) For the purposes of this Section 4(b)(i), if the Corporation shall issue or sell any Common Stock Equivalents (except as set forth more particularly in Section 4(b)(ii)), the maximum total number of shares of Common Stock issuable upon exercise of such rights or the exchange and conversion of such Common Stock Equivalents shall thereupon be deemed to have been issued and to be outstanding, and the consideration received by the Corporation therefor shall be deemed to include the sum of the consideration received for the issue of such rights and the minimum additional consideration payable upon the exercise of such rights or the exchange and conversion of such Common Stock Equivalents. No further adjustment of the Series A Conversion Price adjusted upon the issuance of such rights shall be made as a result of the actual issuance of shares of Common Stock on the exercise of any such rights or the exchange and conversion of such Common Stock Equivalents. If the provisions of any rights described in this Section 4(b)(i) with respect to the purchase price of shares of Common Stock or the number of shares purchasable shall change or expire or if the purchase price thereunder shall decrease or the number of shares purchasable thereunder increase, any adjustment previously made hereunder for such rights with respect to Series A Preferred Stock not yet converted shall be readjusted as of the date of issuance of such rights to such as would have obtained on the basis of the rights as modified by such change or expiration (except for the operation of any anti-dilutive provisions thereof).

(B) In case the Corporation shall issue shares of its Common Stock or Common Stock Equivalents for a consideration wholly or partly other than cash, the amount of the consideration other than cash received by the Corporation shall be deemed to be the fair market value of such consideration as determined reasonably and in good faith by the Board of Directors of the Corporation.

(C) In case Common Stock shall be deemed to have been issued upon the issuance by the Corporation of any right to acquire such Common Stock in connection with the issue or sale of other securities or assets of the Corporation, together comprising one integrated transaction, such rights shall be deemed to have been issued for such portion of the consideration received as may be reasonably determined in good faith by the Board of Directors to be allocable thereto.

(D) Consideration received by the Corporation for issuance of its Common Stock shall be determined in all cases without deduction

therefrom of any expenses, underwriting commissions or concessions incurred in connection therewith which are reasonable and customary with respect to that particular transaction.

(ii) Exceptions to Anti-Dilution. Anything herein notwithstanding, no adjustments in the number of shares of Common Stock deliverable upon conversion of the Series A Preferred Stock as set forth in Section 4(b)(i) shall be made by reason of or in connection with (1) the issuance of options for up to ten percent (10%) of the Corporation's capitalization as of the date hereof issued to employees of the Corporation, (2) the issuance of shares of Common Stock to Frontenac Financial Group, Inc. in connection with the consummation of the Preferred Stock Purchase Agreement; (3) the issuance of Common Stock to Manuel Taracido by reason of the exercise of the options contained in the Warrants issued to Taracido in connection with Taracido's loan to the corporation on January 29, 2002; and (4) the issuance of shares of Common Stock to CHL or CHL Side Fund by reason of the exercise of options contained in the Warrants issued to CHL, and CHL Side Fund pursuant to the Stock Purchase and Bridge Loan Agreement dated February 4, 2002 between the Corporation, CHL and CHL Side Fund.

(iii) Changes in Common Stock; Capital Reorganization or Reclassification. If the Corporation shall subdivide the outstanding shares of Common Stock into a greater number of shares of Common Stock or combine the outstanding shares of Common Stock into a lesser number of shares, or issue additional shares of Common Stock as a dividend or other distribution on its Common Stock, or reorganize or reclassify its shares of Common Stock into any other shares of the Corporation, the number of shares of Common Stock into which each share of Series A Preferred Stock may be converted immediately prior thereto shall be adjusted so that the holder of the shares of Series A Preferred Stock thereafter surrendered for conversion shall be entitled to receive for each share of Series A Preferred Stock the number of shares of Common Stock which such holder would have owned or been entitled to receive after the happening of any of the events described above if such holder's Series A Preferred Stock had been converted into Common Stock immediately prior to the happening of such event, such adjustment to become effective concurrently with effectiveness of such event.

(iv) Merger, Consolidation or Sale of Assets. If there shall be a merger or consolidation of the Corporation with or into another corporation (other than a merger or reorganization involving only a change in the state of incorporation of the Corporation or the acquisition by the Corporation of other businesses where the Corporation survives as a going concern), or the sale of all or substantially all of the Corporation's capital stock or assets to any other person to which the provisions of Section 4(b)(i) do not apply, then as a part of such transaction, provision shall be made so that the holders of the Series A Preferred Stock shall thereafter be entitled to receive upon conversion of the Series A Preferred Stock the number of shares of stock or other securities or property of the Corporation, or of the successor corporation resulting from the merger, consolidation or sale, to

which such holder would have been entitled if such holder had converted its shares of Series A Preferred Stock immediately prior thereto. In any such case, appropriate adjustment shall be made in the application of the provisions of this Section 4 to the end that the provisions of this Section 4 shall be applicable after that event in as nearly equivalent a manner as may be practicable.

(c) Notice of Adjustments. Upon any adjustment of the Series A Conversion Price or the number of shares of Common Stock into which Series A Preferred Stock may be converted, then in each such case the Corporation shall give written notice thereof within thirty (30) days of the occurrence of the adjustment, addressed to each registered holder of Series A Preferred Stock at the address of such holder as shown on the records of the Corporation. Such notice shall state the Series A Conversion Price resulting from such adjustment and the increase or decrease, if any, in the number or shares of Common Stock issuable upon the conversion of Series A Preferred Stock, setting forth in reasonable detail the method of calculation and the facts upon which such calculation is based.

(d) Exercise of Conversion Privilege. To exercise its conversion privilege, a holder of Series A Preferred Stock shall surrender the certificate or certificates representing the shares being converted to the Corporation at its principal office, and shall give written notice to the Corporation at that office that such holder elects to convert such shares. The certificate or certificates for shares of Series A Preferred Stock surrendered for conversion shall be accompanied by proper assignment thereof to the Corporation or in blank. As promptly as practicable after the date when such written notice is received by the Corporation (the "Series A Conversion Date"), the Corporation shall issue and shall deliver to the holder of the shares of Series A Preferred Stock being converted, or on its written order, such certificate or certificates as it may request for the number of whole shares of Common Stock and Series A Redeemable Stock issuable upon the conversion of such shares of Series A Preferred Stock in accordance with the provisions of this Section 4, including shares of Common Stock and Series A Redeemable Stock for all unpaid dividends on such shares of Series A Preferred Stock, up to and including the Series A Conversion Date, and cash, as provided in Section 4(f), in respect of any fraction of a share of Common Stock issuable upon such conversion. Such conversion shall be deemed to have been effected immediately prior to the close of business on the Series A Conversion Date, and at such time the rights of the holder as holder of the converted shares of Series A Preferred Stock shall cease and the person(s) in whose name(s) any certificate(s) for shares of Common Stock and Series A Redeemable Stock shall be issuable shall be deemed to have become the holder or holders of record of the shares of Common Stock and Series A Redeemable Stock represented thereby.

(e) Automatic Conversion. The Series A Preferred Stock shall automatically convert into the securities contemplated by Section 4(a) hereof on the earlier to occur of a Series A Automatic Conversion Event. On or after the date of occurrence of a Series A Automatic Conversion Event, and in any event within ten (10) days after receipt of notice; by mail, postage prepaid from the Corporation of the occurrence of such event, each holder of record of shares of Series A Preferred Stock shall surrender such holder's certificates evidencing such shares at the principal office of the Corporation or at such

other place as the Corporation shall designate, and shall thereupon be entitled to receive certificates evidencing the number of shares of Common Stock and Series A Redeemable Stock into which such shares of Series A Preferred Stock are converted. On the date of the occurrence of a Series A Automatic Conversion Event, each holder of record of shares of Series A Preferred Stock shall be deemed to be the holder of record of the shares of Common Stock and Series A Redeemable Stock issuable upon such conversion and no shares of Series A Preferred Stock shall be considered outstanding, without any further action by the holders of such shares and whether or not the certificates representing such shares of Series A Preferred Stock are surrendered to the Corporation or its transfer agent.

(f) Cash in Lieu of Fractional Shares. No fractional shares of Common Stock shall be issued upon the conversion of shares of Series A Preferred Stock. Instead of any fractional shares of Common Stock which would otherwise be issuable upon conversion of Series A Preferred Stock, the Corporation shall pay to the holder of the shares of Series A Preferred Stock which were converted a cash adjustment in respect of such fractional shares in an amount equal to the same fraction of the fair market value per share of the Common Stock (as determined in a reasonable manner prescribed by the Board of Directors) at the close of business on the Series A Conversion Date.

Section 5. Covenants / Restrictions and Limitations.

(a) Amendment of Corporate Documents. The Corporation shall not, for so long as any shares of Series A Preferred Stock are outstanding, take any corporate action or otherwise amend its Articles of Incorporation without the approval by vote or written consent of the holders of at least a majority of the then outstanding shares of Series A Preferred Stock if such corporate action or amendment would change any of the rights, preferences, privileges or limitations provided for herein for the benefit of any shares of Series A Preferred Stock or materially adversely affect the rights of the holders of Series A Preferred Stock.

(b) Termination of Restrictions. The provisions of Section 5(a) shall terminate upon the redemption or cancellation of all shares of Series A Redeemable Stock.

(c) Reservation of Stock.

(i) The Corporation shall at all times reserve and keep available out of its authorized but unissued Common Stock and Series A Redeemable Stock the full number of shares of Common Stock and Series A Redeemable Stock deliverable upon the conversion of all the then outstanding shares of Series A Preferred Stock and shall take all such action and obtain all such permits or orders as may be necessary to enable the Corporation lawfully to issue such Common Stock and Series A Redeemable Stock upon the conversion of Series A Preferred Stock.

(ii) The Corporation shall at all times reserve and keep available out of its authorized but unissued Series A Preferred Stock a sufficient number of shares of Series A Preferred Stock necessary to fulfill its obligation with respect to the

issuance of additional shares of Series A Preferred Stock, including but not limited to pursuant to Section 2(a) hereof.

(d) No Dilution or Impairment. The Corporation will not, by amendment of its Articles of Incorporation or through any reorganization, transfer of capital stock or assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of Series A Preferred Stock set forth herein, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such action as may be necessary or appropriate in order to protect the rights of the holders of Series A Preferred Stock against dilution or other impairment. Without limiting the generality of the foregoing, the Corporation (a) will not increase the par value of any shares of stock receivable on the conversion of Series A Preferred Stock above the amount payable therefor on such conversion, and (b) will take all such action as may be necessary or appropriate in order that the Corporation may validly and legally issue fully paid and nonassessable shares of Common Stock and Series A Redeemable Stock on the conversion of all Series A Preferred Stock from time to time outstanding.

(e) Notices of Record Date. In the event of

(i) any taking by the Corporation of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend or other distribution, or any right to subscribe for, purchase or otherwise acquire any shares of capital stock of any class or any other securities or property, or to receive any other right, or

(ii) any capital reorganization of the Corporation, any reclassification or recapitalization of the capital stock of the Corporation, any merger or consolidation of the Corporation, or any transfer of all or substantially all of the assets of the Corporation to any other Corporation, or any other entity or person, or

(iii) any voluntary or involuntary dissolution, liquidation or winding up of the Corporation,

then and in each such event the Corporation shall deliver or cause to be delivered to each holder of Series A Preferred Stock a notice specifying (i) the date on which any such record is to be taken for the purpose of such dividend, distribution or right and a description of such dividend, distribution or right, (ii) the date on which any such reorganization, reclassification, recapitalization, transfer, consolidation, merger, dissolution, liquidation or winding up is expected to become effective, and (iii) the time, if any, that is to be fixed, as to when the holders of record of Common Stock (or other securities) shall be entitled to exchange their shares of Common Stock (or other securities) for securities or other property deliverable upon such reorganization, reclassification, recapitalization, transfer, consolidation, merger, dissolution, liquidation or winding up. Such notice shall be delivered by facsimile transmission, hand delivery or overnight courier service to the holders of Series A Preferred Stock at the address given to the Corporation, for notice purposes, at least ten (10) days prior to the date specified in

such notice on which such action is to be taken, except in the case of an involuntary dissolution, which notice shall be provided within three (3) days following the date upon which the Corporation receives notice of such event.

(f) No Reissuance of Series A Preferred Stock. No share or shares of Series A Preferred Stock acquired by the Corporation by reason of redemption, purchase, conversion or otherwise shall be reissued, and all such shares shall be cancelled, retired and eliminated from the shares which the Corporation shall be authorized to issue.

(g) Information. So long as any shares of Series A Preferred Stock are outstanding, the Corporation shall furnish to the holder of the Series A Preferred Stock, or their representatives, the following information with respect to the Corporation and its operations:

(i) Within thirty days (30) after the end of each month, monthly and year to date financial reports detailing the income statement, balance sheet and cash flow statements of operations. The income statement shall detail operating performance versus plan and prior year's operating performance.

(ii) Within ninety days (90) of the end of each fiscal year, audited financial statements, audited by a "Big Five" accounting firm.

(iii) Thirty days (30) prior to the beginning of each fiscal year, an annual budget;

All financial information shall be presented in a consolidated and consolidating format.

(h) Certain Taxes. The Corporation shall pay any issue or transfer taxes payable in connection with the conversion of Series A Preferred Stock, provided, however, that the corporation shall not be required to pay any tax which may be payable in respect of any transfer to a name other than that of the holder of Series A Preferred Stock.

(i) Closing of Books. The Corporation shall at no time close its transfer books against the transfer of any Series A Preferred Stock or of any shares of Common Stock or Series A Redeemable Stock issued or issuable upon the conversion of any shares of Series A Preferred Stock in any manner which interferes with the timely conversion or transfer of Series A Preferred Stock, Common Stock or Series A Redeemable Stock.

Part I. Series A Redeemable Stock

The preferences, privileges and restrictions granted to or imposed on the Corporation's Series A Redeemable Stock, or the holders thereof, are as follows:

Section 1. General.

(a) Limited Rights. Other than with respect to the approval rights set forth in Section 1(b) hereof and in Section 5(b) of Part F of this Article IV, the dividends payable pursuant to Section 2 hereof, the liquidation rights set forth in Section 3 hereof and the

redemption rights set forth in Section 4 hereof, the Series A Redeemable Stock shall have no other preferences or rights vis-à-vis the holders of the Corporation's Common Stock.

(b) Amendment of Corporate Documents. The Corporation shall not, for so long as any shares of Series A Redeemable Stock are outstanding, take any corporate action or otherwise amend its Articles of Incorporation without the approval by vote or written consent of the holders of at least a majority of the then outstanding shares of Series A Redeemable Stock if such corporate action or amendment would change any of the rights, preferences, privileges or limitations provided for herein for the benefit of any shares of Series A Redeemable Stock or materially adversely affect the rights of the holders of Series A Redeemable Stock. In any case in which an affirmative vote of the holders of record of a proportion of the Series A Redeemable Stock is required under the provisions of this Section 1(b), the written consent (which may be in the form of a written consent action pursuant to the Act or in another form evidencing such consent) of the holders of record of such proportion of the shares of Series A Redeemable Stock shall be deemed equivalent to such a vote.

Section 2. Dividends.

(a) Computation of Preferred Cumulative Dividends. The holders of the outstanding shares of Series A Redeemable Stock shall be entitled to receive cumulative dividends, on each share of Series A Redeemable Stock, at the annual rate of ten percent (10%) of the Series A Per Share Price per annum. The Corporation shall pay such dividends in shares of Series A Redeemable Stock valued at the Series A Per Share Price, unless the Board of Directors shall declare and pay such dividends in cash out of funds legally available therefor. Such dividends shall accrue quarterly on each share of Series A Redeemable Stock from the date of original issuance of such share upon conversion from Series A Preferred Stock, whether or not earned or declared, and shall accrue on each such share until (i) such share is redeemed or cancelled pursuant to Section 4 of this Part G, or (ii) paid in any distribution of the assets of the Corporation with respect to any liquidation, dissolution or winding up of the Corporation.

(b) Priority of Dividends. The shares of Series A Redeemable Stock shall be preferred as to payment of dividends over the Common Stock, but shall be junior to the rights to payment of dividends of the Series D Preferred Stock, the Series D Redeemable Stock, the Series C Preferred Stock, the Series C Redeemable Stock, the Series A Preferred Stock and the Series A Redeemable Stock, all as provided in this Section 2. The right of the shares of Series A Redeemable Stock to payment of dividends shall be on a *pari passu* basis with the shares of Series A Preferred Stock.

(c) Adjustments. The amounts to be paid or set aside for payment as provided above in this Section 3 shall be proportionately increased or decreased in inverse relation to the change in the number of outstanding shares resulting from any Recapitalization Event involving a change in the terms of the Series A Redeemable Stock.

Section 3. Liquidation Preferences.

(a) Computation of Preferred Liquidation Rights. In the event of any liquidation, dissolution, or winding up of the Corporation, whether voluntary or involuntary, or in the event of its insolvency, the holders of Series A Redeemable Stock shall be entitled to have set apart for them, or to be paid, out of the assets of the Corporation available for distribution to stockholders, and before any distribution or payment is made to any holders of any shares of Common Stock or any other class or series of capital stock of the Corporation (other than the holders of the Series A Preferred Stock as provided in Section 3(b) of Part H), but after all distributions and payments to be made to the holders of any shares of Series D Preferred Stock, Series D Redeemable Stock, Series C Preferred Stock, Series C Redeemable Stock, Series B Preferred Stock or Series B Redeemable Stock, an amount equal to the Series A Per Share Price (which amount shall be subject to equitable adjustment in the event of a Recapitalization Event involving a change in the capital structure of the Corporation with respect to the Series A Redeemable Stock) plus all accrued and unpaid dividends thereon, whether or not earned or declared, up to and including the date full payment shall be tendered to the holders of Series A Redeemable Stock with respect to such liquidation, dissolution or winding up.

(b) Priority. The shares of Series A Redeemable Stock shall be preferred as to distributions in the event of any liquidation, dissolution, or winding up of the Corporation, whether voluntary or involuntary, or in the event of its insolvency, over the Common Stock, but after all distributions to be made to the holders of any shares of the Series D Preferred Stock (other than as provided in Section 3(c) of Part B), the Series D Redeemable Stock, the Series C Preferred Stock (other than as provided in Section 3(c) of Part D), the Series C Redeemable Stock, the Series B Preferred Stock or the Series B Redeemable Stock. If, upon any liquidation, dissolution, or winding up of the Corporation, whether voluntary or involuntary, the assets legally available for distribution among the holders of Series A Preferred Stock and Series A Redeemable Stock shall be insufficient to permit payment to such holders of the full preferential amounts as provided for above and in Section 3 of Part H, then such holders shall share ratably in any distribution of available assets according to the respective amounts which would otherwise be payable with respect to the shares of Series A Preferred Stock and Series A Redeemable Stock held by them upon such liquidating distribution if all amounts payable on or with respect to said shares were paid in full, based upon the aggregate liquidation value of the Series A Preferred Stock and the Series A Redeemable Stock.

(c) Deemed Liquidation. For purposes of this Section 3, any of the following transactions shall be deemed to be a liquidation, dissolution or winding up: (1) a consolidation or merger of the Corporation with or into any other corporation or corporations, (2) a sale or other disposition of all or substantially all of the assets of the Corporation, except with respect to an Organic Transaction which results in the automatic conversion of the Series A Preferred Stock into shares of Common Stock pursuant to Section 4(e) of Part H, and (3) the issuance and/or sale by the Corporation of shares of Common Stock (or securities convertible into shares of Common Stock) in a single or integrated transaction constituting a majority of the shares of Common Stock outstanding immediately following such issuance (treating all securities convertible into shares of Common Stock as having been fully converted and all options and other rights to acquire shares of Common Stock or securities convertible into shares of Common Stock as having been fully exercised); provided, however, that none of the foregoing transactions

shall be deemed to be a liquidation, dissolution or winding up for purposes of this paragraph unless an election to do so shall have been approved by an affirmative vote of holders of record of a majority of the shares of Series A Preferred Stock and Series A Redeemable Stock then outstanding.

Section 4. Redemption.

(a) Each issued and outstanding share of the Redeemable Preferred Stock shall be redeemed by the Corporation at the liquidation price set forth in Section 3(a) hereof on the earlier to occur of (i) the closing date an Organic Transaction, (ii) a Qualifying IPO, or (iii) the Mandatory Redemption Date.

(b) Notwithstanding any other provision of this Section 4 to the contrary, in the event of a Qualifying IPO or Organic Transaction under which the Common Stock is valued at greater than Three Dollars (\$3.00) per share (adjusted to take into account any Recapitalization Event), then the Series A Redeemable Stock shall be cancelled on the books of the Corporation.

Part J. General.

Section 1. Board of Directors; Preferred Director Election Right.

(a) The Board of Directors of the Corporation shall consist of nine (9) members, consisting of the following:

(i) So long as CHL and CHL Side Fund own any capital stock of the Corporation, CHL and CHL Side Fund shall vote as a separate class (apart from the holders of Common Stock) in the election of directors and shall have the right voting as a class to elect two (2) of the Corporation's directors (each of such two (2) directors being referred to herein as a "CHL Preferred Director" and referred to collectively as the "CHL Preferred Directors"). Any CHL Preferred Director may be removed during his or her term of office, with or without cause, only with the joint consent of CHL and CHL Side Fund.

(ii) So long as CMS XIV and CMS XVIII own any shares of Series A Preferred Stock or Series A Redeemable Stock, CMS XIV and CMS XVIII shall vote as a separate class (apart from the holders of Common Stock) in the election of directors and shall have the right voting as a class to elect one (1) of the Corporation's directors (such director being referred to herein as the "CMS Preferred Director"). The CMS Preferred Director may be removed during his or her term of office, with or without cause, only with the joint consent of CMS XIV and CMS XVIII.

(iii) So long as the Steffy Family Trust owns any capital stock of the Corporation, the Steffy Family Trust shall vote as a separate class (apart from the holders of Common Stock) in the election of directors and shall have the right voting as a class to elect one (1) of the Corporation's directors (such director being referred to herein as the "Steffy Preferred Director"). The Steffy Preferred

Director may be removed during his or her term of office, with or without cause, only with the consent of the Steffy Family Trust.

(iv) The then duly elected and acting Chief Executive Officer of the Corporation shall serve as one (1) of the Corporation's directors.

(v) The remaining directors shall be elected by the holders of the capital stock of the Corporation, voting as a single class. Any director elected pursuant to this clause (v) may be removed during his or her term of office, with or without cause, by the holders of the capital stock of the Corporation, voting as a single class.

(b) At any annual or special meeting of the Corporation (or in a written consent in lieu thereof) held for the purpose of electing directors, the presence in person or by proxy (or by written consent) of the holders of a majority of the outstanding shares of all capital stock shall constitute a quorum for the election of the directors. A vacancy in any seat held by a director shall be filled by the vote or written consent of the remaining directors as provided by law, provided, however, that the only person who will be considered in such election shall be the person nominated for such vacancy by the party who designated the director whose removal or inability or refusal to serve has created such vacancy. The Board of Directors shall meet at least bi-monthly. The Corporation shall obtain and maintain directors and officers insurance in form and substance acceptable to CHL and all members of the Board of Directors shall be reimbursed for reasonable travel expenses to meetings of the Board of Directors. In addition, any independent director, if applicable, shall be entitled to reasonable compensation for his or her services. CHL also shall have the right to appoint a representative to the Corporation's audit committee, compensation committee, financing committee and, to the extent they exist, the executive committee and the nominating committee.

Section 2. Actions Requiring Unanimous Preferred Director Approval. The Corporation will not take any of the following actions without the unanimous approval of the CHL Preferred Directors and the CMS Preferred Director:

- (a) Acquire any asset not contemplated by Corporation's annual capital budget; or
- (b) Approve the Corporation's annual capital and operating budgets.

Section 3. Termination of Restrictions. The provisions of Sections 1 and 2 of this Part J shall terminate upon the redemption or cancellation of all shares of Series D Redeemable Stock, Series C Redeemable Stock, Series B Redeemable Stock and Series A Redeemable Stock following the conversion of all shares of Series D Preferred Stock, Series C Preferred Stock, Series B Preferred Stock and Series A Preferred Stock as provided in Section 4 of Parts B, D, F and H.

SECOND: If an amendment provides for an exchange, reclassification or cancellation of issued shares, provisions for implementing the amendment if not contained in the amendment itself, are as follows:

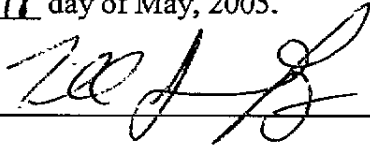
NONE

THIRD: The date of each amendment's adoption: May 18, 2005.

FOURTH: The amendment was approved by the shareholders. The number of votes cast for the amendment was sufficient for approval.

Signed this 18 day of May, 2005.

Signature



William J. Gecsey

Name

President

Title