

**P00000049106**

**Florida Department of State**  
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**BASIC AMENDMENT**

**RIVAR TECHNOLOGIES, INC.**

Certificate of Status	1
Certified Copy	0
Page Count	26

*Amend*

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Estimated Charge	\$43.75
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**FLORIDA DEPARTMENT OF STATE**  
Katherine Harris  
Secretary of State

May 25, 2001

RIVAR TECHNOLOGIES, INC.  
10523 GREYNA GREEN DR.  
TAMPA, FL 33626

SUBJECT: RIVAR TECHNOLOGIES, INC.  
REF: P00000049106

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

If the document was approved by a majority vote of the shareholders, it should also contain a statement that the number of votes cast by the shareholders was sufficient for approval.

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

If you have any questions concerning the filing of your document, please call (850) 487-6906.

Darlene Connell  
Corporate Specialist

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SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

**ARTICLES OF AMENDMENT OF  
ARTICLES OF INCORPORATION  
OF  
RIVAR TECHNOLOGIES, INC.**

Pursuant to Section 607.1006 of the Florida Statutes, RIVAR TECHNOLOGIES, INC., a corporation organized and existing under and by virtue of the laws of the State of Florida (the "Corporation"), does hereby certify:

Name. The name of the Corporation is Rivar Technologies, Inc.

Amendments Adopted. The amendment adopted provides for certain changes to the rights of holders of Special Preferred Stock and creation of Series B Preferred Stock.

Text of Amendments. Article 3 is hereby amended by deleting such Article and substituting the following new Article 3 which reads as follows:

**ARTICLE 3  
Capital Stock**

3.1 Authorized Shares. The total number of shares of all classes of capital stock that the Corporation shall have the authority to issue shall be 50,000,000 shares, of which 40,000,000 shares shall be Common Stock having a par value of \$0.0001 per share ("Common Stock") and 10,000,000 shares shall be Preferred Stock, \$0.0001 par value per share ("Preferred Stock"). The Board of Directors is expressly authorized, pursuant to Section 607.0602 of the FBCA, to provide for the classification and reclassification of any unissued shares of Common Stock or Preferred Stock and the issuance thereof in one or more classes or series without the approval of the shareholders of the Corporation, all within the limitations set forth in Section 607.0601 of the FBCA.

3.2 Common Stock.

(A) Relative Rights. The Common Stock shall be subject to all of the rights, privileges, preferences and priorities of the Preferred Stock as set forth in the Articles of Amendment to these Articles of Incorporation that may hereafter be filed pursuant to Section 607.0602 of the FBCA to establish the respective class or series of the Preferred Stock. Except as otherwise provided in these Articles of Incorporation, each share of Common Stock shall have the same rights as and be identical in all respects to all the other shares of Common Stock.

(B) Voting Rights. Except as otherwise provided in these Articles of Incorporation, except as otherwise provided by the FBCA and except as may be determined by the Board of Directors with respect to the Preferred Stock, only the holders of Common Stock shall be entitled to vote for the election of directors of the Corporation and for all other corporate purposes. Upon any such vote, each holder of

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Common Stock shall, except as otherwise provided by the FBCA, be entitled to one vote for each share of Common Stock held by such holder.

(C) Dividends. Whenever there shall have been paid, or declared and set aside for payment, to the holders of the shares of any class of stock having preference over the Common Stock as to the payment of dividends, the full amount of dividends and of sinking fund or retirement payments, if any, to which such holders are respectively entitled in preference to the Common Stock, then the holders of record of the Common Stock and any class or series of stock entitled to participate therewith as to dividends, shall be entitled to receive dividends, when, as, and if declared by the Board of Directors, out of any assets legally available for the payment of dividends thereon.

(D) Dissolution, Liquidation, Winding Up. In the event of any dissolution, liquidation, or winding up of the Corporation, whether voluntary or involuntary, the holders of record of the Common Stock then outstanding, and all holders of any class or series of stock entitled to participate therewith in whole or in part, as to the distribution of assets, shall become entitled to participate in the distribution of assets of the Corporation remaining after the Corporation shall have paid, or set aside for payment, to the holders of any class of stock having preference over the Common Stock in the event of dissolution, liquidation, or winding up, the full preferential amounts (if any) to which they are entitled, and shall have paid or provided for payment of all debts and liabilities of the Corporation.

### 3.3 Preferred Stock.

(A) Issuance, Designations, Powers Etc. The Board of Directors is expressly authorized, subject to the limitations prescribed by the FBCA and the provisions of these Articles of Incorporation, to provide, by resolution and by filing Articles of Amendment to these Articles of Incorporation, which, pursuant to Section 607.0602(4) of the FBCA shall be effective without shareholder action, for the issuance from time to time of the shares of the Preferred Stock in one or more classes or series, to establish from time to time the number of shares to be included in each such class or series, and to fix the designations, powers, preferences and other rights of the shares of each such class or series and to fix the qualifications, limitations and restrictions thereon, including, but without limiting the generality of the foregoing, the following:

(1) the number of shares constituting that class or series and the distinctive designation of that class or series;

(2) the dividend rate on the shares of that class or series, whether dividends shall be cumulative, noncumulative or partially cumulative and, if so, from which date or dates, and the relative rights of priority, if any, of payments of dividends on shares of that class or series;

(3) whether that class or series shall have voting rights, in addition to the voting rights provided by the FBCA, and, if so, the terms of such voting rights;

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(4) whether that class or series shall have conversion privileges, and, if so, the terms and conditions of such conversion, including provision for adjustment of the conversion rate in such events as the Board of Directors shall determine;

(5) whether or not the shares of that class or series shall be redeemable, and, if so, the terms and conditions of such redemption, including the dates upon or after which they shall be redeemable, and the amount per share payable in case of redemption, which amount may vary under different conditions and at different redemption dates;

(6) whether that class or series shall have a sinking fund for the redemption or purchase of shares of that class or series, and, if so, the terms and amount of such sinking fund;

(7) the rights of the shares of that class or series in the event of voluntary or involuntary liquidation, dissolution, or winding up of the Corporation, and the relative rights of priority, if any, of payment of shares of that class or series; and

(8) any other relative powers, preferences, and rights of that class or series, and qualifications, limitations or restrictions on that class or series.

#### 3.4 Convertible Preferred Stock.

(A) Issuance and Voting Rights. The Board of Directors is expressly authorized to issue 1,500,000 shares of Convertible Preferred Stock ("Special Preferred Stock") which shall be a class of Preferred Stock and shall be subject to the limitations prescribed by the FBCA and the provisions of these Articles of Incorporation. Except as otherwise provided by the FBCA, prior to the conversion of the Special Preferred Stock into Common Stock pursuant to Section 3.4(D)(1), the holders of issued and outstanding shares of Special Preferred Stock ("Special Preferred Holders") shall be entitled to vote for the election of one director of the Corporation. On all other corporate matters, each share of Special Preferred Stock shall be entitled to that number of votes as shall equal the number of shares of Common Stock into which such Special Preferred Stock may be converted pursuant to Section 3.4(D).

(B) Dividend Provisions. No dividend shall be paid on the Common Stock in any fiscal year so long as the Special Preferred Stock is outstanding.

#### (C) Liquidation.

(1) Preference. In the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, the holders of the Special Preferred Stock in pari passu with the holders of Series B Preferred Stock shall be entitled to receive, prior and in preference to any distribution of any of the assets of the Corporation to the holders of Common Stock by reason of their ownership thereof,

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an amount per share equal to \$0.375 (appropriately adjusted to reflect subsequent stock splits, stock dividends, combinations or other recapitalizations) for each share of Special Preferred Stock then held by them, plus declared but unpaid dividends (appropriately adjusted to reflect subsequent stock splits, stock dividends, combinations or other recapitalizations).

(2) Remaining Assets. Upon the completion of the distribution required by Section 3.4(C)(1) above, the remaining assets of the Corporation available for distribution to stockholders shall be distributed among the holders of the Common Stock, Special Preferred Stock and Series B Preferred Stock (assuming conversion of all Special Preferred Stock) pro rata based on the number of shares of Common Stock, Special Preferred Stock and Series B Preferred Stock held by each.

(3) Certain Acquisitions.

i. Deemed Liquidation. For purposes of this Section 3.4(C), a liquidation, dissolution or winding up of the Corporation shall be deemed to occur if the Corporation shall sell, convey, or otherwise dispose of all or substantially all of its property or business or merge into or consolidate with any other corporation (other than a wholly-owned subsidiary corporation) or effect any other transaction or series of related transactions in which more than fifty percent (50%) of the voting power of the Corporation is disposed of, *provided* that this Section 3.4(C)(3)(i) shall not apply to a merger effected solely for the purpose of changing the domicile of the Corporation.

ii. Valuation of Consideration. In the event of a deemed liquidation as described in Section 3.4(C)(3)(i) above, if the consideration received by the Corporation is other than cash, its value will be deemed its fair market value. Any securities shall be valued as follows:

1. The method of valuation of securities not subject to an investment letter or other similar restrictions on free marketability:

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

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

(c) If there is no active public market, the value shall be the fair market value thereof, as mutually determined by the Corporation and the holders of at least a majority of the voting power of all then

outstanding shares of Special Preferred Stock and Series B Preferred Stock, and if not so mutually determined, then the Corporation and the holders of at least a majority of the voting power of all then outstanding shares of Special Preferred Stock and Series B Preferred Stock will choose an independent third party to determine the appropriate value.

2. The method of valuation of securities subject to an investment letter or other restrictions on free marketability (other than restrictions arising solely by virtue of a stockholder's status as an affiliate or former affiliate) shall be to make an appropriate discount from the market value determined as above in Section 2.c.ii.(1) to reflect the approximate fair market value of the securities, as mutually determined by the Corporation and the holders of at least a majority of the voting power of all then outstanding shares of Special Preferred Stock and Series B Preferred Stock, and if not so mutually determined, then the Corporation and the holders of at least a majority of the voting power of all then outstanding shares of Special Preferred Stock and Series B Preferred Stock will choose an independent third party to determine the appropriate value.

3. Notice of Transaction. The Corporation shall give each holder of record of Special Preferred Stock and Series B Preferred Stock written notice of such impending transaction not later than fifteen (15) days prior to the stockholders' meeting called to approve such transaction, or fifteen (15) days prior to the closing of such transaction, whichever is earlier, and shall also notify such holders in writing of the final approval of such transaction. The first of such notices shall describe the material terms and conditions of the impending transaction and the provisions of this Section 3.4(C)(3), and the Corporation shall thereafter give such holders prompt notice of any material changes. The transaction shall in no event take place sooner than fifteen (15) days after the Corporation has given the first notice provided for herein or sooner than ten (10) days after the Corporation has given notice of any material changes provided for herein; *provided, however*, that such periods may be shortened upon the written consent of the holders of Special Preferred Stock and Series B Preferred Stock that are entitled to such notice rights or similar notice rights and that represent at least a majority of the voting power of all then outstanding shares of such Special Preferred Stock and Series B Preferred Stock.

iii. Effect of Noncompliance. In the event the requirements of this Section 3.4(C)(3) are not complied with, the Corporation shall forthwith either cause the closing of the transaction to be postponed until such requirements have been complied with, or cancel such transaction, in which event the rights, preferences and privileges of the holders of the Special Preferred Stock shall revert to and be the same as such rights, preferences and privileges existing immediately prior to the date of the first notice referred to in Section 3.4(C)(3)(iii) hereof.

(D) Redemption. Unless otherwise provided for in an agreement between the Corporation and the holders of the Special Preferred Stock, the Special Preferred Stock is not redeemable.



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

(1) Right to Convert. Subject to Section 3.4.(E)(3), each share of Special Preferred Stock shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share, at the office of the Corporation or any transfer agent for such stock, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing \$0.375 by the Conversion Price ("Conversion Price"), determined as hereafter provided, in effect on the date the certificate is surrendered for conversion. The initial Conversion Price shall be equal to \$0.375. Such initial Conversion Price shall be subject to adjustment as set forth in Section 3.4(E)(3).

(2) Mechanics of Conversion. Before any holder of Special Preferred Stock shall be entitled to convert the same into shares of Common Stock, it shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Corporation or of any transfer agent for such series of Special Preferred Stock, and shall give written notice to the Corporation at its principal corporate office, of the election to convert the same and shall state therein the name or names in which the certificate or certificates for shares of Common Stock are to be issued. The Corporation shall, as soon as practicable thereafter, issue and deliver at such office to such holder of the Special Preferred Stock, or to the nominee or nominees of such holder, a certificate or certificates for the number of shares of Common Stock to which such holder shall be entitled as aforesaid. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of such series of Special Preferred Stock to be converted, and the person or persons entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock as of such date. If the conversion is in connection with an underwritten offering of securities registered pursuant to the Securities Act the conversion may, at the option of any holder tendering such Special Preferred Stock for conversion, be conditioned upon the closing with the underwriters of the sale of securities pursuant to such offering, in which event the person(s) entitled to receive Common Stock upon conversion of such Special Preferred Stock shall not be deemed to have converted such Special Preferred Stock until immediately prior to the closing of such sale of securities.

(3) Conversion Price Adjustments of Series A Preferred Stock for Certain Dilutive Issuances, Splits and Combinations. The Conversion Price of the Special Preferred Stock shall be subject to adjustment from time to time as follows:

i. Adjustments for Additional Stock. If this Corporation shall issue, after the date on which any shares of Special Preferred Stock were first issued (the "Purchase Date"), to any persons, any Additional Stock (as defined below in Section 3.4(E)(3)(vi)) for a consideration per share less than the Conversion Price for such Special Preferred Stock in effect immediately prior to the issuance of such Additional Stock, the Conversion Price for such Special Preferred Stock in effect immediately prior to each such issuance shall forthwith (except as

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otherwise provided in this Section 3.4(E)(3)(i) be adjusted downward to the consideration per share paid for such Additional Stock, or if all or a portion of such Special Preferred Stock had been converted prior to the issuance of any such Additional Stock, then the Company shall issue to the holders of Special Preferred Stock an additional number of shares of Common Stock equal to the number of shares of Common Stock the holders of Special Preferred Stock would have received if each had not converted such Special Preferred Stock.

ii. Amounts Less than One Hundredth. No adjustment of the Conversion Price for the Special Preferred Stock shall be made in an amount less than one hundredth of one cent per share, provided that any adjustments which are not required to be made by reason of this sentence shall be carried forward and shall be either taken into account in any subsequent adjustment made prior to three (3) years from the date of the event giving rise to the adjustment being carried forward, or shall be made at the end of three (3) years from the date of the event giving rise to the adjustment being carried forward. Except to the limited extent provided for in Sections 3.4(E)(3)(v)(i) and (4), no adjustment of such Conversion Price pursuant to this Section 3.4(E)(3)(i) shall have the effect of increasing the Conversion Price above the Conversion Price in effect immediately prior to such adjustment.

iii. Common Stock for Cash. In the case of the issuance of shares of Common Stock for cash, the consideration shall be deemed to be the amount of cash paid therefor before deducting any discounts, commissions or other expenses allowed, paid or incurred by this Corporation for any underwriting or otherwise in connection with the issuance and sale thereof.

iv. Noncash Consideration for Common Stock. In the case of the issuance of shares of Common Stock for a consideration in whole or in part other than cash, the consideration other than cash shall be deemed to be the fair value thereof as determined by the Board of Directors irrespective of any accounting treatment.

v. Derivative Securities. In the case of the issuance (whether before, on or after the applicable Purchase Date) of options, warrants or other rights to purchase or subscribe for shares of Common Stock, securities by their terms convertible into or exchangeable for shares of Common Stock or options, warrants or other rights to purchase or subscribe for such convertible or exchangeable securities, the following provisions shall apply for all purposes of this Section 3.4(E)(3)(i) and Section 3.4(E)(3)(vi).

1. The aggregate maximum number of shares of Common Stock deliverable on exercise (assuming the satisfaction of any conditions to exercisability, including, without limitation, the passage of time, but without taking into account potential antidilution adjustments) of such options, warrants or other rights to purchase or subscribe for shares of Common Stock shall be deemed to have been issued at the time such options, warrants or other rights were issued and for a consideration equal to the consideration (determined in the manner provided in Sections

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3.4(E)(3)(iii) and 3.4(E)(3)(iv)), if any, received by this Corporation on the issuance of such options, warrants or other rights plus the minimum exercise price provided in such options, warrants or other rights (without taking into account potential antidilution adjustments) for the Common Stock covered thereby.

2. The aggregate maximum number of shares of Common Stock deliverable on conversion of, or in exchange for (assuming the satisfaction of any conditions to convertibility or exchangeability, including, without limitation, the passage of time, but without taking into account potential antidilution adjustments), any such convertible or exchangeable securities or on the exercise of options, warrants or other rights to purchase or subscribe for such convertible or exchangeable securities and subsequent conversion or exchange thereof shall be deemed to have been issued at the time such securities were issued or such options, warrants or other rights were issued and for a consideration equal to the consideration, if any, received by this Corporation for any such securities and related options, warrants or other rights (excluding any cash received on account of accrued interest or accrued dividends), plus the minimum additional consideration, if any, to be received by this Corporation (without taking into account potential antidilution adjustments) on the conversion or exchange of such securities or the exercise in full of any related options, warrants or other rights (the consideration in each case to be determined in the manner provided in Sections 3.4(E)(3)(iii) and 3.4(E)(3)(iv).

3. In the event of any change in the number of shares of Common Stock deliverable or in the consideration payable to this Corporation on exercise of such options, warrants or other rights or on conversion of, or in exchange for, such convertible or exchangeable securities, including, but not limited to, a change resulting from the antidilution provisions thereof, the Conversion Price of the Special Preferred Stock, to the extent in any way affected by or computed using such options, warrants or other rights or securities, shall be recomputed to reflect such change, but no further adjustment shall be made for the actual issuance of Common Stock or any payment of such consideration on the exercise of any such options, warrants or other rights or the conversion or exchange of such securities.

4. On the expiration of any such options, warrants or other rights, the termination of any such rights to convert or exchange or the expiration of any options, warrants or other rights related to such convertible or exchangeable securities, the Conversion Price of the Special Preferred Stock, to the extent in any way affected by or computed using such options, warrants or other rights or securities or options, warrants or other rights related to such securities, shall be recomputed to reflect the issuance of only the number of shares of Common Stock (and convertible or exchangeable securities which remain in effect) actually issued on the exercise of such options, warrants or other rights, on the conversion or exchange of such securities or on the exercise of the options, warrants or other rights related to such securities.

5. The number of shares of Common Stock deemed issued and the consideration deemed paid therefor pursuant to Sections

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3.4(E)(3)(v)(1) and (2) shall be appropriately adjusted to reflect any change, termination or expiration of the type described in either Section 3.4(E)(3)(v)(3) or (4).

vi. Additional Stock. "Additional Stock" shall mean any shares of Common Stock issued (or deemed to have been issued pursuant to Section 3.4(E)(3)(v) by this Corporation after the Purchase Date other than the Excluded Stock. "Excluded Stock" means the following:

1. shares of Common Stock issuable on conversion of the Special Preferred Stock,
2. shares of Common Stock issued or issuable (1) in a public offering, before or in connection with which all outstanding shares of Special Preferred Stock will be converted to Common Stock or (2) on exercise of warrants or rights granted to underwriters in connection with such a public offering,
3. shares of Common Stock issuable or issued in any transaction pursuant to which the Corporation is acquiring substantially all of the outstanding Common Stock or other equity interests of any other corporation or entity or a significant portion of the assets of any such entity if the Board of Directors has determined that the value per share of the Common Stock issued in such transaction is greater than or equal to the Conversion Price at such time,
4. shares of Common Stock issued to any person or entity that a majority of the directors of the Corporation, including one of the directors elected by the holders of the Special Preferred Stock, in the exercise of their reasonable business judgment, determine offer the Corporation a strategic advantage in the operation of the Corporation such that it would be desirable to enter into a relationship with such person or entity, and
5. the Reserved Employee shares (as defined below) of this Corporation issued or to be issued directly or pursuant to a stock option plan, employee incentive plan or restricted stock plan approved by the Board of Directors of this Corporation, including one of the directors elected by the holders of the Special Preferred Stock, to employees, officers or directors of, or consultants or advisors to, the Corporation or any subsidiary. "Reserved Employee Shares" means 500,000 shares of Common Stock and/or options, warrants or other Common Stock purchase rights, and the Common Stock issued pursuant to such options, warrants or other rights (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like). The Reserved Employee Shares shall not be issued at an exercise price less than fair market value as determined by this Corporation's Board of Directors, including the directors elected by the holders of the Special Preferred Stock, provided however, that if the fair market value is less than the Conversion Price, no such shares shall be issued without the approval of all of the directors elected by the holders of the Special Preferred Stock.

vii. Stock Splits and Dividends. In the event this Corporation should at any time or from time to time after the Purchase Date fix a record date for the effectuation of a split or subdivision of the outstanding shares of Common Stock or the determination of holders of Common Stock entitled to receive a dividend or other distribution payable in additional shares of Common Stock or other securities or rights convertible into, or entitling the holder thereof to receive directly or indirectly, additional shares of Common Stock (hereinafter referred to as "Common Stock Equivalents") without payment of any consideration by such holder for the additional shares of Common Stock or the Common Stock Equivalents (including the additional shares of Common Stock issuable on conversion or exercise thereof), then, as of such record date (or the date of such dividend distribution, split or subdivision if no record date is fixed), the Conversion Price of the Special Preferred Stock shall be appropriately decreased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be increased in proportion to such increase of the aggregate of shares of Common Stock outstanding and those issuable with respect to such Common Stock Equivalents with the number of shares issuable with respect to Common Stock Equivalents determined from time to time in the manner provided for deemed issuances in Section 3.4(E)(3)(v).

viii. Reverse Stock Splits. If the number of shares of Common Stock outstanding at any time after the Purchase Date is decreased by a combination of the outstanding shares of Common Stock then, following the record date of such combination, the Conversion Price for the Special Preferred Stock shall be appropriately increased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be decreased in proportion to such decrease in the outstanding shares of Common Stock as a result of such combination.

(4) Other Distributions. In the event the Corporation shall declare a distribution payable in securities of other persons, evidences of indebtedness issued by the Corporation or other persons, assets (excluding cash dividends) or options or rights not referred to in Section 3.4(E)(3)(vi), then, in each such case for the purpose of this Section 3.4(E)(4), the holders of Special Preferred Stock shall be entitled to a proportionate share of any such distribution as though they were the holders of the number of shares of Common Stock of the Corporation into which their shares of Special Preferred Stock are convertible as of the record date fixed for the determination of the holders of Common Stock of the Corporation entitled to receive such distribution.

(5) Recapitalizations. If at any time or from time to time there shall be a recapitalization of the Common Stock (other than a subdivision, combination or merger or sale of assets transaction provided for elsewhere in this Section 3.4(E) or 3.4(C)) provision shall be made so that the holders of the Special Preferred Stock shall thereafter be entitled to receive upon conversion of such Special Preferred Stock the number of shares of stock or other securities or property of the Corporation or otherwise, to which a holder of Common Stock deliverable upon conversion would have been entitled on such recapitalization. In any such case,

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appropriate adjustment shall be made in the application of the provisions of this Section 3.4(E) with respect to the rights of the holders of such Special Preferred Stock after the recapitalization to the end that the provisions of this Section 3.4(E) (including adjustment of the Conversion Price then in effect and the number of shares purchasable upon conversion of such Special Preferred Stock) shall be applicable after that event and be as nearly equivalent as practicable.

(6) No Impairment. The Corporation will not, without the consent of the holders of at least a majority of shares of Special Preferred Stock, by amendment of its Articles of Incorporation or through any reorganization, recapitalization, transfer of 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 to be observed or performed hereunder by the Corporation, but will at all times in good faith assist in the carrying out of all the provisions of this Section 3.4(E) and in the taking of all such action as may be necessary or appropriate in order to protect the Conversion Rights of the holders of Special Preferred Stock against impairment.

(7) No Fractional Shares and Certificate as to Adjustments.

i. No fractional shares shall be issued on the conversion of any share or shares of the Special Preferred Stock. All shares of Common Stock (including fractions thereof) issuable upon conversion of more than one share of Special Preferred Stock by a holder thereof shall be aggregated for purposes of determining whether the conversion would result in the issuance of any fractional share. If, after the aforementioned aggregation, the conversion would result in the issuance of any fractional share, the Corporation shall, in lieu of issuing any fractional share, pay cash equal to the product of such fraction multiplied by the Common Stock's fair market value (as determined by the Corporation's Board of Directors) on the date of conversion.

ii. On the occurrence of each adjustment or readjustment of the Conversion Price of Special Preferred Stock pursuant to this Section 3.4(E), this Corporation, at its expense, shall promptly compute such adjustment or readjustment in accordance with the terms hereof and prepare and furnish to each holder of Special Preferred Stock a certificate setting forth such adjustment or readjustment and showing in detail the facts on which such adjustment or readjustment is based. This Corporation shall, on the written request at any time of any holder of Special Preferred Stock, furnish or cause to be furnished to such holder a like certificate setting forth (a) such adjustment and readjustment, (b) the Conversion Price for such series of Special Preferred Stock at the time in effect and (c) the number of shares of Common Stock and the amount, if any, of other property which at the time would be received on the conversion of a share of Special Preferred Stock.

(8) Notices of Record Date. In the event of any taking by this 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

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distribution, any right to subscribe for, purchase or otherwise acquire any shares of stock of any class or any other securities or property, or to receive any other right, this Corporation shall mail to each holder of Special Preferred Stock, at least 20 days prior to the date on which any such record is to be taken for the purpose of such dividend, distribution or right (the "Record Date"), a notice specifying the Record Date and the amount and character of such dividend, distribution or right.

(9) Reservation of Stock Issuable Upon Conversion. This Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of the shares of the Special Preferred Stock, such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of the Special Preferred Stock; and, if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Special Preferred Stock, in addition to such other remedies as shall be available to the holder of such Special Preferred Stock, this Corporation will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes, including, without limitation, engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to these Articles of Incorporation.

(10) Notices. Any notice required by the provisions of this Section 3.4(E) shall be in writing and shall be deemed effectively given: (i) upon personal delivery to the party to be notified, (ii) when sent by confirmed telex or facsimile if sent during normal business hours of the recipient, if not, then on the next business day, (iii) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid or (iv) one (1) day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All notices shall be addressed to each holder of record at the address of such holder appearing on the books of this Corporation.

(F) Voting Rights. Except as otherwise required by law, the holder of each share of Special Preferred Stock shall have the right to one vote for each share of Common Stock into which such Special Preferred Stock could then be converted, and with respect to such vote, such holder shall have full voting rights and powers equal to the voting rights and powers of the holders of Common Stock, and shall be entitled, notwithstanding any provision hereof, to notice of any stockholders meeting in accordance with the Bylaws of the Corporation, and shall be entitled to vote, together with holders of Common Stock, with respect to any question upon which holders of Common Stock have the right to vote. Fractional votes shall not, however, be permitted and any fractional voting rights available on an as-converted basis (after aggregating all shares into which shares of Special Preferred Stock held by each holder could be converted) shall be rounded to the nearest whole number (with one-half being rounded upward).

(G) Protective Provisions.

(1) This Corporation shall not without first obtaining the approval (by vote or written consent, as provided by law) of the holders of at least a majority of the then outstanding shares of Special Preferred Stock or, in the case of the actions described in Sections 3.4(G)(1)(i)(v) and (vi), the approval (by vote or written consent) of the holders of all of the then outstanding shares of Special Preferred Stock:

- i. Amend the Articles of Incorporation or Bylaws of the Corporation or any of its subsidiaries, except that if such amendment in any way adversely affects the holders of the Special Preferred Stock, the approval of all of the holders of the Special Preferred Stock shall be required;
- ii. Sell, lease, transfer convey, or otherwise dispose of all or substantially all of its property or business or merge into or consolidate with any other corporation (other than a wholly-owned subsidiary corporation), effect any transaction or series of related transactions in which more than fifty percent (50%) of the voting power of this Corporation is disposed of, or otherwise effect a Liquidation; provided that this Section 6.a.ii. shall not apply to a merger effected solely for the purpose of changing the domicile of the Corporation;
- iii. Liquidate, dissolve, wind-up, re-capitalize or re-organize the Corporation or any of its subsidiaries;
- iv. Declare any dividends or distributions on the Common Stock;
- v. Change the rights or terms of the Special Preferred Stock;
- vi. Authorize, create or issue shares of any class of stock having rights, preferences, or privileges superior or on parity with the Special Preferred Stock;
- vii. Increase or decrease the authorized number of shares of the holders of Special Preferred Stock or Common Stock;
- viii. Incur any indebtedness or guarantee obligations in excess of \$1,000,000 in the aggregate;
- ix. Commence any voluntary bankruptcy proceeding or otherwise take any action to declare the Corporation or any of its subsidiaries insolvent;
- x. Other than in the ordinary course of business, sell, lease, exchange, transfer or otherwise dispose of, directly or indirectly, in a single transaction or series of related transactions, any assets of the Corporation or any of its subsidiaries having a value in excess of \$500,000; and



xi. Other than in the ordinary course of business, acquire any assets (including securities) having a value in excess of \$100,000.

(II) Status of Converted Stock. In the event any shares of Special Preferred Stock shall be converted pursuant to Section 4 hereof, the shares of Special Preferred Stock so converted shall be cancelled and shall not be issuable by the Corporation. The Articles of Incorporation of the Corporation shall be appropriately amended to effect the corresponding reduction in the Corporation's authorized capital stock.

### 3.5 Series B Preferred Stock.

(A) Rights, Preferences and Restrictions of Series B Preferred Stock. The Series B Preferred Stock authorized by these Articles of Incorporation may be issued from time to time in one or more series with the rights, preferences and designations for each such series of Series B Preferred Stock to be determined by the Corporation's Board of Directors. The first series of Series B Preferred Stock shall be designated "Series B Preferred Stock" and shall consist of eight hundred thousand (800,000) shares. The rights, preferences, privileges, and restrictions granted to and imposed on the Series B Preferred Stock are as set forth below.

(B) Dividend Provisions. No dividend shall be paid on the Common Stock in any fiscal year so long as the Series B Preferred Stock is outstanding.

#### (C) Liquidation.

(1) Preference. In the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, the holders of the Series B Preferred Stock, in pari passu with the holders of Special Preferred Stock shall be entitled to receive, prior and in preference to any distribution of any of the assets of the Corporation to the holders of Common Stock by reason of their ownership thereof, an amount per share equal to \$0.3751 (appropriately adjusted to reflect subsequent stock splits, stock dividends, combinations or other recapitalizations) for each share of Series B Preferred Stock then held by them, plus declared but unpaid dividends (appropriately adjusted to reflect subsequent stock splits, stock dividends, combinations or other recapitalizations).

(2) Remaining Assets. Upon the completion of the distribution required by Section 3.5(C)(1) above, the remaining assets of the Corporation available for distribution to stockholders shall be distributed among the holders of the Common Stock, Special Preferred Stock, and Series B Preferred Stock (assuming conversion of all Series B Preferred Stock) pro rata based on the number of shares of Common Stock, Special Preferred Stock, and Series B Preferred Stock held by each.

(3) Certain Acquisitions.

i. Deemed Liquidation. For purposes of this Section 3.5(C), a liquidation, dissolution or winding up of the Corporation shall be deemed to occur if the Corporation shall sell, convey, or otherwise dispose of all or substantially all of its property or business or merge into or consolidate with any other corporation (other than a wholly-owned subsidiary corporation) or effect any other transaction or series of related transactions in which more than fifty percent (50%) of the voting power of the Corporation is disposed of, *provided* that this Section 3.5(C)(3)(i) shall not apply to a merger effected solely for the purpose of changing the domicile of the Corporation.

ii. Valuation of Consideration. In the event of a deemed liquidation as described in Section 3.5(C)(3)(i) above, if the consideration received by the Corporation is other than cash, its value will be deemed its fair market value. Any securities shall be valued as follows:

1. The method of valuation of securities not subject to an investment letter or other similar restrictions on free marketability:

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

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

(c) If there is no active public market, the value shall be the fair market value thereof, as mutually determined by the Corporation and the holders of at least a majority of the voting power of all then outstanding shares of Special Preferred Stock and Series B Preferred Stock, and if not so mutually determined, then the Corporation and the holders of at least a majority of the voting power of all then outstanding shares of Special Preferred Stock and Series B Preferred Stock will choose an independent third party to determine the appropriate value.

2. The method of valuation of securities subject to an investment letter or other restrictions on free marketability (other than restrictions arising solely by virtue of a stockholder's status as an affiliate or former affiliate) shall be to make an appropriate discount from the market value determined as above in Section 2.c.ii.(1) to reflect the approximate fair market value of the securities, as mutually determined by the Corporation and the holders of at least a majority of the voting power of all then outstanding shares of Special Preferred Stock and Series B Preferred Stock, and if not so mutually determined, then the Corporation and the

holders of at least a majority of the voting power of all then outstanding shares of Special Preferred Stock and Series B Preferred Stock will choose an independent third party to determine the appropriate value.

iii. Notice of Transaction. The Corporation shall give each holder of record of Special Preferred Stock and Series B Preferred Stock written notice of such impending transaction not later than fifteen (15) days prior to the stockholders' meeting called to approve such transaction, or fifteen (15) days prior to the closing of such transaction, whichever is earlier, and shall also notify such holders in writing of the final approval of such transaction. The first of such notices shall describe the material terms and conditions of the impending transaction and the provisions of this Section 2, and the Corporation shall thereafter give such holders prompt notice of any material changes. The transaction shall in no event take place sooner than fifteen (15) days after the Corporation has given the first notice provided for herein or sooner than ten (10) days after the Corporation has given notice of any material changes provided for herein; *provided, however*, that such periods may be shortened upon the written consent of the holders of Special Preferred Stock and Series B Preferred Stock that are entitled to such notice rights or similar notice rights and that represent at least a majority of the voting power of all then outstanding shares of such Special Preferred Stock and Series B Preferred Stock.

iv. Effect of Noncompliance. In the event the requirements of this Section 3.5(C)(3) are not complied with, the Corporation shall forthwith either cause the closing of the transaction to be postponed until such requirements have been complied with, or cancel such transaction, in which event the rights, preferences and privileges of the holders of the Special Preferred Stock and Series B Preferred Stock shall revert to and be the same as such rights, preferences and privileges existing immediately prior to the date of the first notice referred to in Section 3.5(C)(3)(iii) hereof.

(D) Redemption. Unless otherwise provided for in an agreement between the Corporation and the holders of the Series B Preferred Stock, the Series B Preferred Stock is not redeemable.

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

(1) Right to Convert. Subject to Section 3.5(E)(3), each share of Series B Preferred Stock shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share, at the office of the Corporation or any transfer agent for such stock, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing \$0.3751 by the Conversion Price ("Conversion Price"), determined as hereafter provided, in effect on the date the certificate is surrendered for conversion. The initial Conversion Price shall be equal to \$0.3751. Such initial Conversion Price shall be subject to adjustment as set forth in Section 3.5(E)(3).

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(2) Mechanics of Conversion. Before any holder of Series B Preferred Stock shall be entitled to convert the same into shares of Common Stock, it shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Corporation or of any transfer agent for such series of Series B Preferred Stock, and shall give written notice to the Corporation at its principal corporate office, of the election to convert the same and shall state therein the name or names in which the certificate or certificates for shares of Common Stock are to be issued. The Corporation shall, as soon as practicable thereafter, issue and deliver at such office to such holder of the Series B Preferred Stock, or to the nominee or nominees of such holder, a certificate or certificates for the number of shares of Common Stock to which such holder shall be entitled as aforesaid. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of such series of Series B Preferred Stock to be converted, and the person or persons entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock as of such date. If the conversion is in connection with an underwritten offering of securities registered pursuant to the Securities Act the conversion may, at the option of any holder tendering such Series B Preferred Stock for conversion, be conditioned upon the closing with the underwriters of the sale of securities pursuant to such offering, in which event the person(s) entitled to receive Common Stock upon conversion of such Series B Preferred Stock shall not be deemed to have converted such Series B Preferred Stock until immediately prior to the closing of such sale of securities.

(3) Conversion Price Adjustments of Series A Preferred Stock for Certain Dilutive Issuances, Splits and Combinations. The Conversion Price of the Series B Preferred Stock shall be subject to adjustment from time to time as follows:

i. Adjustments for Additional Stock. If this Corporation shall issue, after the date on which any shares of Series B Preferred Stock were first issued (the "Purchase Date"), to any persons, any Additional Stock (as defined below in Section 3.5(E)(3)(vi) for a consideration per share less than the Conversion Price for such Series B Preferred Stock in effect immediately prior to the issuance of such Additional Stock, the Conversion Price for such Series B Preferred Stock in effect immediately prior to each such issuance shall forthwith (except as otherwise provided in this Section 3.5(E)(3)(vi) be adjusted downward to the consideration per share paid for such Additional Stock, or if all or a portion of such Series B Preferred Stock had been converted prior to the issuance of any such Additional Stock, then the Company shall issue to the holders of Series B Preferred Stock an additional number of shares of Common Stock equal to the number of shares of Common Stock the holders of Series B Preferred Stock would have received if it had not converted such Series B Preferred Stock.

ii. Amounts Less than One Hundredth. No adjustment of the Conversion Price for the Series B Preferred Stock shall be made in an amount less than one hundredth of one cent per share, *provided* that any adjustments

which are not required to be made by reason of this sentence shall be carried forward and shall be either taken into account in any subsequent adjustment made prior to three (3) years from the date of the event giving rise to the adjustment being carried forward, or shall be made at the end of three (3) years from the date of the event giving rise to the adjustment being carried forward. Except to the limited extent provided for in Sections 3.5(E)(3)(v)(1) and (4), no adjustment of such Conversion Price pursuant to this Section 3.5(E)(3)(i) shall have the effect of increasing the Conversion Price above the Conversion Price in effect immediately prior to such adjustment.

iii. Common Stock for Cash. In the case of the issuance of shares of Common Stock for cash, the consideration shall be deemed to be the amount of cash paid therefor before deducting any discounts, commissions or other expenses allowed, paid or incurred by this Corporation for any underwriting or otherwise in connection with the issuance and sale thereof.

iv. Noncash Consideration for Common Stock. In the case of the issuance of shares of Common Stock for a consideration in whole or in part other than cash, the consideration other than cash shall be deemed to be the fair value thereof as determined by the Board of Directors irrespective of any accounting treatment.

v. Derivative Securities. In the case of the issuance (whether before, on or after the applicable Purchase Date) of options, warrants or other rights to purchase or subscribe for shares of Common Stock, securities by their terms convertible into or exchangeable for shares of Common Stock or options, warrants or other rights to purchase or subscribe for such convertible or exchangeable securities, the following provisions shall apply for all purposes of this Section 3.5(E)(3)(i) and Section 3.5(E)(3)(vi):

1. The aggregate maximum number of shares of Common Stock deliverable on exercise (assuming the satisfaction of any conditions to exercisability, including, without limitation, the passage of time, but without taking into account potential antidilution adjustments) of such options, warrants or other rights to purchase or subscribe for shares of Common Stock shall be deemed to have been issued at the time such options, warrants or other rights were issued and for a consideration equal to the consideration (determined in the manner provided in Sections 3.5(E)(3)(iii) and 3.5(E)(3)(iv), if any, received by this Corporation on the issuance of such options, warrants or other rights plus the minimum exercise price provided in such options, warrants or other rights (without taking into account potential antidilution adjustments) for the Common Stock covered thereby.

2. The aggregate maximum number of shares of Common Stock deliverable on conversion of, or in exchange for (assuming the satisfaction of any conditions to convertibility or exchangeability, including, without limitation, the passage of time, but without taking into account potential antidilution adjustments), any such convertible or exchangeable securities or on the exercise of options, warrants or other rights to purchase or subscribe for such convertible or

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exchangeable securities and subsequent conversion or exchange thereof shall be deemed to have been issued at the time such securities were issued or such options, warrants or other rights were issued and for a consideration equal to the consideration, if any, received by this Corporation for any such securities and related options, warrants or other rights (excluding any cash received on account of accrued interest or accrued dividends), plus the minimum additional consideration, if any, to be received by this Corporation (without taking into account potential antidilution adjustments) on the conversion or exchange of such securities or the exercise in full of any related options, warrants or other rights (the consideration in each case to be determined in the manner provided in Sections 3.5(E)(3)(iii) and 3.5(E)(3)(iv).

3. In the event of any change in the number of shares of Common Stock deliverable or in the consideration payable to this Corporation on exercise of such options, warrants or other rights or on conversion of, or in exchange for, such convertible or exchangeable securities, including, but not limited to, a change resulting from the antidilution provisions thereof, the Conversion Price of the Series B Preferred Stock, to the extent in any way affected by or computed using such options, warrants or other rights or securities, shall be recomputed to reflect such change, but no further adjustment shall be made for the actual issuance of Common Stock or any payment of such consideration on the exercise of any such options, warrants or other rights or the conversion or exchange of such securities.

4. On the expiration of any such options, warrants or other rights, the termination of any such rights to convert or exchange or the expiration of any options, warrants or other rights related to such convertible or exchangeable securities, the Conversion Price of the Series B Preferred Stock, to the extent in any way affected by or computed using such options, warrants or other rights or securities or options, warrants or other rights related to such securities, shall be recomputed to reflect the issuance of only the number of shares of Common Stock (and convertible or exchangeable securities which remain in effect) actually issued on the exercise of such options, warrants or other rights, on the conversion or exchange of such securities or on the exercise of the options, warrants or other rights related to such securities.

5. The number of shares of Common Stock deemed issued and the consideration deemed paid therefor pursuant to Sections 3.5(E)(3)(v)(1) and (2) shall be appropriately adjusted to reflect any change, termination or expiration of the type described in either Section 3.5(E)(3) (v)(3) or (4).

vi. Additional Stock. "Additional Stock" shall mean any shares of Common Stock issued (or deemed to have been issued pursuant to Section 3.5(E)(3)(v) by this Corporation after the Purchase Date other than the Excluded Stock. "Excluded Stock" means the following:

1. shares of Common Stock issuable on conversion of the Series B Preferred Stock,

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2. shares of Common Stock issued or issuable (1) in a public offering, before or in connection with which all outstanding shares of Series B Preferred Stock will be converted to Common Stock or (2) on exercise of warrants or rights granted to underwriters in connection with such a public offering,

3. shares of Common Stock issuable or issued in any transaction pursuant to which the Corporation is acquiring substantially all of the outstanding Common Stock or other equity interests of any other corporation or entity or a significant portion of the assets of any such entity if the Board of Directors has determined that the value per share of the Common Stock issued in such transaction is greater than or equal to the Conversion Price at such time,

4. shares of Common Stock issued to any person or entity that a majority of the directors of the Corporation, including one of the directors elected by the holders of the Series B Preferred Stock, in the exercise of their reasonable business judgment, determine offer the Corporation a strategic advantage in the operation of the Corporation such that it would be desirable to enter into a relationship with such person or entity, and

5. the Reserved Employee shares (as defined below) of this Corporation issued or to be issued directly or pursuant to a stock option plan, employee incentive plan or restricted stock plan approved by the Board of Directors of this Corporation, including one of the directors elected by the holders of the Series B Preferred Stock, to employees, officers or directors of, or consultants or advisors to, the Corporation or any subsidiary. "Reserved Employee Shares" means 500,000 shares of Common Stock and/or options, warrants or other Common Stock purchase rights, and the Common Stock issued pursuant to such options, warrants or other rights (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like). The Reserved Employee Shares shall not be issued at an exercise price less than fair market value as determined by this Corporation's Board of Directors, including the directors elected by the holders of the Series B Preferred Stock, *provided however*, that if the fair market value is less than the Conversion Price, no such shares shall be issued without the approval of all of the directors elected by the holders of the Series B Preferred Stock.

vii. Stock Splits and Dividends. In the event this Corporation should at any time or from time to time after the Purchase Date fix a record date for the effectuation of a split or subdivision of the outstanding shares of Common Stock or the determination of holders of Common Stock entitled to receive a dividend or other distribution payable in additional shares of Common Stock or other securities or rights convertible into, or entitling the holder thereof to receive directly or indirectly, additional shares of Common Stock (hereinafter referred to as "Common Stock Equivalents") without payment of any consideration by such holder for the additional shares of Common Stock or the Common Stock Equivalents (including the additional shares of Common Stock issuable on conversion or exercise thereof), then, as of such record date (or the date of such dividend distribution, split or subdivision if no record date is fixed), the Conversion Price of the Series B Preferred Stock shall be

appropriately decreased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be increased in proportion to such increase of the aggregate of shares of Common Stock outstanding and those issuable with respect to such Common Stock Equivalents with the number of shares issuable with respect to Common Stock Equivalents determined from time to time in the manner provided for deemed issuances in Section 3.5(E)(3)(v).

viii. Reverse Stock Splits. If the number of shares of Common Stock outstanding at any time after the Purchase Date is decreased by a combination of the outstanding shares of Common Stock then, following the record date of such combination, the Conversion Price for the Series B Preferred Stock shall be appropriately increased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be decreased in proportion to such decrease in the outstanding shares of Common Stock as a result of such combination.

(4) Other Distributions. In the event the Corporation shall declare a distribution payable in securities of other persons, evidences of indebtedness issued by the Corporation or other persons, assets (excluding cash dividends) or options or rights not referred to in Section 3.5(E)(3)(vi), then, in each such case for the purpose of this Section 3.5(E)(4), the holders of Series B Preferred Stock shall be entitled to a proportionate share of any such distribution as though they were the holders of the number of shares of Common Stock of the Corporation into which their shares of Series B Preferred Stock are convertible as of the record date fixed for the determination of the holders of Common Stock of the Corporation entitled to receive such distribution.

(5) Recapitalizations. If at any time or from time to time there shall be a recapitalization of the Common Stock (other than a subdivision, combination or merger or sale of assets transaction provided for elsewhere in this Section 3.5(E) or Section 3.5(C) provision shall be made so that the holders of the Series B Preferred Stock shall thereafter be entitled to receive upon conversion of such Series B Preferred Stock the number of shares of stock or other securities or property of the Corporation or otherwise, to which a holder of Common Stock deliverable upon conversion would have been entitled on such recapitalization. In any such case, appropriate adjustment shall be made in the application of the provisions of this Section 3.5(E) with respect to the rights of the holders of such Series B Preferred Stock after the recapitalization to the end that the provisions of this Section 3.5(E) (including adjustment of the Conversion Price then in effect and the number of shares purchasable upon conversion of such Series B Preferred Stock) shall be applicable after that event and be as nearly equivalent as practicable.

(6) No Impairment. The Corporation will not, without the consent of the holders of at least a majority of shares of Series B Preferred Stock, by amendment of its Articles of Incorporation or through any reorganization, recapitalization, transfer of 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 to be observed or performed hereunder by the Corporation, but will at all times in good faith assist in the carrying out of all the



provisions of this Section 3.5(E) and in the taking of all such action as may be necessary or appropriate in order to protect the Conversion Rights of the holders of Series B Preferred Stock against impairment.

(7) No Fractional Shares and Certificate as to Adjustments.

i. No fractional shares shall be issued on the conversion of any share or shares of the Series B Preferred Stock. All shares of Common Stock (including fractions thereof) issuable upon conversion of more than one share of Series B Preferred Stock by a holder thereof shall be aggregated for purposes of determining whether the conversion would result in the issuance of any fractional share. If, after the aforementioned aggregation, the conversion would result in the issuance of any fractional share, the Corporation shall, in lieu of issuing any fractional share, pay cash equal to the product of such fraction multiplied by the Common Stock's fair market value (as determined by the Corporation's Board of Directors) on the date of conversion.

ii. On the occurrence of each adjustment or readjustment of the Conversion Price of Series B Preferred Stock pursuant to this Section 3.5(E), this Corporation, at its expense, shall promptly compute such adjustment or readjustment in accordance with the terms hereof and prepare and furnish to each holder of Series B Preferred Stock a certificate setting forth such adjustment or readjustment and showing in detail the facts on which such adjustment or readjustment is based. This Corporation shall, on the written request at any time of any holder of Series B Preferred Stock, furnish or cause to be furnished to such holder a like certificate setting forth (a) such adjustment and readjustment, (b) the Conversion Price for such series of Series B Preferred Stock at the time in effect and (c) the number of shares of Common Stock and the amount, if any, of other property which at the time would be received on the conversion of a share of Series B Preferred Stock.

(8) Notices of Record Date. In the event of any taking by this 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, any right to subscribe for, purchase or otherwise acquire any shares of stock of any class or any other securities or property, or to receive any other right, this Corporation shall mail to each holder of Series B Preferred Stock, at least 20 days prior to the date on which any such record is to be taken for the purpose of such dividend, distribution or right (the "Record Date"), a notice specifying the Record Date and the amount and character of such dividend, distribution or right.

(9) Reservation of Stock Issuable Upon Conversion. This Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of the shares of the Series B Preferred Stock, such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of the Series B Preferred Stock; and, if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all

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then outstanding shares of the Series B Preferred Stock, in addition to such other remedies as shall be available to the holder of such Series B Preferred Stock, this Corporation will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes, including, without limitation, engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to these Articles of Incorporation.

(10) Notices. Any notice required by the provisions of this Section 3.5(E) shall be in writing and shall be deemed effectively given: (i) upon personal delivery to the party to be notified, (ii) when sent by confirmed telex or facsimile if sent during normal business hours of the recipient, if not, then on the next business day, (iii) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid or (iv) one (1) day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All notices shall be addressed to each holder of record at the address of such holder appearing on the books of this Corporation.

(F) Voting Rights. Except as otherwise required by law, the holder of each share of Series B Preferred Stock shall have the right to one vote for each share of Common Stock into which such Series B Preferred Stock could then be converted, and with respect to such vote, such holder shall have full voting rights and powers equal to the voting rights and powers of the holders of Common Stock, and shall be entitled, notwithstanding any provision hereof, to notice of any stockholders meeting in accordance with the Bylaws of the Corporation, and shall be entitled to vote, together with holders of Common Stock, with respect to any question upon which holders of Common Stock have the right to vote. Fractional votes shall not, however, be permitted and any fractional voting rights available on an as-converted basis (after aggregating all shares into which shares of Series B Preferred Stock held by each holder could be converted) shall be rounded to the nearest whole number (with one-half being rounded upward).

(G) Protective Provisions.

(1) This Corporation shall not without first obtaining the approval (by vote or written consent, as provided by law) of the holders of at least a majority of the then outstanding shares of Series B Preferred Stock or, in the case of the actions described in Sections 3.5(G)(1)(i), (v) and (vi) and vi., the approval (by vote or written consent) of the holders of all of the then outstanding shares of Series B Preferred Stock:

i. Amend the Articles of Incorporation or Bylaws of the Corporation or any of its subsidiaries, except that if such amendment in any way adversely affects the holders of the Series B Preferred Stock, the approval of all of the holders of the Series B Preferred Stock shall be required;

ii. Sell, lease, transfer convey, or otherwise dispose of all or substantially all of its property or business or merge into or consolidate with any other corporation (other than a wholly-owned subsidiary corporation), effect any transaction or series of related transactions in which more than fifty percent (50%) of the voting power of this Corporation is disposed of, or otherwise effect a Liquidation; provided that this Section 6.a.ii. shall not apply to a merger effected solely for the purpose of changing the domicile of the Corporation;

iii. Liquidate, dissolve, wind-up, re-capitalize or re-organize the Corporation or any of its subsidiaries;

iv. Declare any dividends or distributions on the Common Stock;

v. Change the rights or terms of the Series B Preferred Stock;

vi. Authorize, create or issue shares of any class of stock having rights, preferences, or privileges superior or on parity with the Series B Preferred Stock;

vii. Increase or decrease the authorized number of shares of the holders of Series B Preferred Stock or Common Stock;

viii. Incur any indebtedness or guarantee obligations in excess of \$1,000,000 in the aggregate;

ix. Commence any voluntary bankruptcy proceeding or otherwise take any action to declare the Corporation or any of its subsidiaries insolvent;

x. Other than in the ordinary course of business, sell, lease, exchange, transfer or otherwise dispose of, directly or indirectly, in a single transaction or series of related transactions, any assets of the Corporation or any of its subsidiaries having a value in excess of \$500,000; and

xi. Other than in the ordinary course of business, acquire any assets (including securities) having a value in excess of \$100,000.

(H) Status of Converted Stock. In the event any shares of Series B Preferred Stock shall be converted pursuant to Section 4 hereof, the shares of Series B Preferred Stock so converted shall be cancelled and shall not be issuable by the Corporation. The Articles of Incorporation of the Corporation shall be appropriately amended to effect the corresponding reduction in the Corporation's authorized capital stock.

Article 7. Article 7 is hereby amended by deleting such Article and substituting the following new Article 7 which reads as follows:

**ARTICLE 7**  
**Amendment**

7.1 Articles of Incorporation. Notwithstanding any other provision of these Articles of Incorporation or the Bylaws of the Corporation (and notwithstanding that a lesser percentage may be specified by law) the affirmative vote of fifty-one percent (51%) of the total number of votes of the then outstanding shares of the capital stock of the Corporation entitled to vote generally at the election of directors, voting together as a single class, shall be required (unless separate voting by classes is required by the FBCA or elsewhere in these Articles, in which event the affirmative vote of fifty-one percent (51%) of the number of shares of each class or series entitled to vote as a class shall be required), to amend or repeal, or to adopt any provision inconsistent with the purpose or intent of, Articles 3, 4, 5, 6 or this Article 7 of these Articles of Incorporation. Notice of any such proposed amendment, repeal or adoption shall be contained in the notice of the meeting at which it is to be considered. Subject to the provisions set forth herein, the Corporation reserves the right to amend, alter, repeal or rescind any provision contained in these Articles of Incorporation in the manner now or hereafter prescribed by law.

7.2 Bylaws. The shareholders of the Corporation may adopt or amend a bylaw which fixes a greater quorum or voting requirement for shareholders (or voting groups of shareholders) than is required by the FBCA. The adoption or amendment of a bylaw that adds, changes or deletes a greater quorum or voting requirement for shareholders must meet the same quorum or voting requirement and be adopted by the same vote and voting groups required to take action under the quorum or voting requirement then in effect or proposed to be adopted, whichever is greater.

Article 9 Article 9 is hereby amended by deleting such Article and substituting the following new Article 9 which reads as follows:

**ARTICLE 9**  
**Amendment**

The address of the Principal Office of the Corporation and its mailing address is 2536 Countryside Blvd., Suite 230, Clearwater, Florida 33763. The location of the Principal Office and the mailing address shall be subject to change as may be provided in the Bylaws.

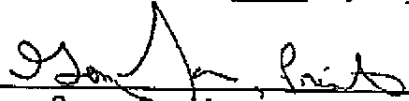
Adoption of Amendments. The foregoing amendment was approved by unanimous written consent of the Board of Directors and a majority of the holders of issued and outstanding common stock and Special Preferred Stock of the Corporation pursuant to Sections 607.0704 and 607.0821, Florida Statutes, on May 23, 2001. The number of votes cast by the Shareholders was sufficient for approval.

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Effective Date. The effective date of the amendments herein certified shall be the date of filing these Articles of Amendment to Articles of Incorporation with the Florida Secretary of State.

IN WITNESS WHEREOF, the undersigned President of the Corporation has executed these Articles of Amendment to Articles of Incorporation as of the 23 day of MAY, 2001.

  
\_\_\_\_\_  
Gene Savar, President