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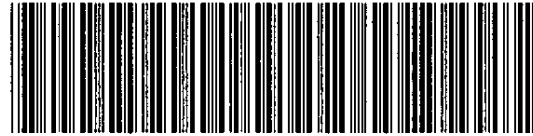
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*Amended &  
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Articles*

2009 JUN 11 AM 11:22  
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TALLAHASSEE, FLORIDA

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*Box  
6/12/09*



CORPORATION SERVICE COMPANY

ACCOUNT NO. : I20000000195  
REFERENCE : 033311 4144A  
AUTHORIZATION : *[Signature]*  
COST LIMIT : \$ 85.00

ORDER DATE : June 11, 2009  
ORDER TIME : 9:02 AM  
ORDER NO. : 033311-005  
CUSTOMER NO: 4144A

DOMESTIC AMENDMENT FILING

NAME: UCT COATINGS, INC.

XX RESTATED ARTICLES OF INCORPORATION

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

XX PLAIN STAMPED COPY

CONTACT PERSON: Kimberly Moret -- EXT# 2949

EXAMINER'S INITIALS: \_\_\_\_\_

ANNETTE, PLEASE MAKE SURE TO DATE THIS 6/11/09 PER OUR  
CONVERSATION. THANK YOU!

**THIRD AMENDED AND RESTATED  
ARTICLES OF INCORPORATION**

**OF  
UCT COATINGS, INC.  
(a Florida corporation)**

**FILED**  
2009 JUN 11 AM 11:22  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

**PURSUANT** to the provisions of Section 607.1007 of the Florida Business Corporation Act, the undersigned President of **UCT COATINGS, INC.**, hereby adopts the following Amended and Restated Articles of Incorporation for such corporation.

1. The present name of the Corporation is **UCT Coatings, Inc.** (the "Corporation"). The date of filing its original Articles of Incorporation with the Secretary of State was August 10, 2000.

2. These Third Amended and Restated Articles of Incorporation were duly adopted by the Board of Directors on March 17, 2009 and the Shareholders of the Corporation on March 17, 2009, in accordance with Sections 607.1003, 607.1006, and 607.1007 of the Florida Business Corporation Act.

3. The Articles of Incorporation are hereby amended by being deleted in their entirety and restated as follows:

**ARTICLE I.**

**Name**

The name of the Corporation is UCT Coatings, Inc.

**ARTICLE II.**

**Principal Office and Mailing Address**

The principal office and mailing address of the Corporation is 7825 S.W. Ellipse Way, Stuart, Florida 34997. The location of the principal office shall be subject to change as may be provided in bylaws duly adopted by the Corporation.

**ARTICLE III.**

**Purpose**

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the Florida Business Corporation Act.

## **ARTICLE IV.**

### **Shares**

The total number of shares of all classes of capital stock that the Corporation has authority to issue is Fifty One Million Six Hundred Thousand (51,600,000) consisting of (i) Forty Seven Million (47,000,000) shares of Common Stock, par value \$.01 per share ("Common Stock"); (ii) Eight Hundred Thousand (800,000) shares of Series A Convertible Preferred Stock, par value \$.01 per share (the "Series A Preferred Stock"); (iii) One Million Three Hundred Thousand (1,300,000) shares of Series B Convertible Preferred Stock, par value \$.01 per share (the "Series B Preferred Stock"); (iv) Two Million Five Hundred Thousand (2,500,000) shares of Series B-1 Convertible Preferred Stock, par value \$.01 per share (the "Series B-1 Preferred Stock"). The Series A Preferred Stock, the Series B Preferred Stock, and the Series B-1 Preferred Stock are collectively referred to as the "Preferred Stock."

#### **A. Common Stock**

1. **General.** The voting, liquidation and dividend rights of the Common Stock are subject to and qualified by the rights of the holders of Preferred Stock.

2. **Common Stock.** Each share of Common Stock is entitled to one (1) vote. There shall be no cumulative voting. In the event of the liquidation, dissolution or winding up of the Corporation, whether voluntary or otherwise, the holders of the Common Stock shall be entitled, after payment of the debts of the Corporation and distributions in full to holders of issued and outstanding Preferred Stock in accordance with the terms of the Preferred Stock, to their pro rata share of all remaining assets of the Corporation in proportion to the total number of the shares of Common Stock then issued and outstanding.

3. **Election of Directors.** In the election of directors of the Corporation, the holders of the Common Stock, voting separately as a single class to the exclusion of all other classes of the Corporation's capital stock and with each share of Common Stock entitled to one vote, shall be entitled to elect three (3) directors nominated by the management of the Corporation to serve on the Board until a director's successor is duly elected by the holders of the Common Stock or such director is removed from office by the holders of the Common Stock. At such time as no shares of Common Stock are outstanding, any director in office elected solely by the holders of the Common Stock voting separately as a class shall remain as a member of the Board until such time as his or her successor shall be duly elected by the shareholders of the Corporation then entitled to vote for directors acting together as a single class. If the holders of the Common Stock for any reason fail to elect anyone to fill any such directorship (so long as they retain the right to fill such directorship), such position shall remain vacant until such time as the holders of the Common Stock elect a director to fill such position and such vacancy shall not be filled by resolution or vote of the Board or the Corporation's other shareholders. In addition, the holders of the Common Stock, the Series A Preferred Stock, the Series B Preferred Stock, and the Series B-1 Preferred Stock, voting together as a single class and with each share entitled to one vote, shall be entitled to elect four (4) directors to serve on the Board until a director's successor is duly elected by such shareholders or such director is removed from office by such shareholders.

**B. Series B Preferred Stock.** In addition to any rights and preferences with respect to the Series B Preferred Stock set forth in Article IV.E hereof, the Series B Preferred Stock shall have the following rights and preferences:

**1. Dividends.**

(a) **General Obligation.** When and as declared by the Corporation's Board of Directors (the "Board") and to the extent permitted under the Florida Business Corporation Act, the Corporation shall pay preferential dividends in cash to the holders of the Series B Preferred Stock as provided in this Article IV.B.1. The date on which the Corporation initially issues any share of Series B Preferred Stock (a "Series B Share") shall be deemed to be its "date of issuance" regardless of the number of times transfer of such share is made on the stock records maintained by or for the Corporation and regardless of the number of certificates which may be issued to evidence such Share. Notwithstanding anything herein to the contrary, (i) no dividend shall be declared or paid on any Junior Security unless, first, all accrued and unpaid dividends on the Series B Preferred Stock shall have been paid in full, and (ii) no dividend shall be declared on any Junior Security unless a dividend is declared with respect to the Series B Preferred Stock, which dividend, in the aggregate, shall be equal to the largest aggregate amount to be declared on any other class or series of Junior Securities.

(b) **Distribution of Partial Dividend Payments.** Except as otherwise provided herein, if at any time the Corporation pays less than the total amount of dividends then accrued with respect to the Series B Preferred Stock, such payment shall be distributed pro rata among the holders thereof based upon the number of Series B Shares held by each such holder.

**2. Liquidation.**

Upon any Liquidation Event, each holder of Series B Preferred Stock shall be entitled to be paid, before any distribution or payment is made upon any Junior Securities (other than the Series A Preferred Stock and Series B-1 Preferred Stock, which shall be *pari passu* with the holders of the Series B Preferred Stock for this purpose), an amount in cash equal to the aggregate Series B Liquidation Value of all Series B Shares held by such holder (plus all accrued and unpaid dividends on such Series B Preferred Stock), and the holders of Series B Preferred Stock shall not be entitled to any further payment. If upon any such Liquidation Event the Corporation's assets to be distributed among the holders of the Series B Preferred Stock, the Series B-1 Preferred Stock, and the Series A Preferred Stock are insufficient to permit payment to such holders of the aggregate amount that they are entitled to be paid under this Article IV.B.2 (in the case of the holders of Series B Preferred Stock), Article IV.C.2 (in the case of the holders of Series B-1 Preferred Stock), and Article IV.D.2 (in the case of the holders of Series A Preferred Stock), then all assets available to be distributed to the Corporation's shareholders shall be distributed pro rata among the holders of the Series B Shares, the holders of the Series B-1 Shares, and the holders of the Series A Shares based upon the aggregate Series B Liquidation Value (plus all accrued and unpaid dividends on the Series B Shares), Series B-1 Liquidation Value (plus all accrued and unpaid dividends on the Series B-1 Shares), or Series A Liquidation Value (plus all accrued and unpaid dividends on the Series A Shares), as applicable, of the Series B Preferred Stock, the Series B-1 Preferred Stock, and Series A Preferred Stock held by each such holder. Prior to any Liquidation Event, the Corporation shall declare for payment all

accrued and unpaid dividends with respect to the Series B Preferred Stock, except to the extent the funds of the Corporation legally available for the payment of dividends are insufficient. Not less than sixty (60) days prior to the payment date stated therein, the Corporation shall mail written notice of any such Liquidation Event to each record holder of Series B Preferred Stock, setting forth in reasonable detail the amount of proceeds to be paid with respect to each Series B Share, Series B-1 Share, Series A Share and each share of Common Stock in connection with such Liquidation Event.

**3. Priority of Series B Preferred Stock on Dividends and Redemptions.**

So long as any Series B Preferred Stock or any Series B-1 Preferred Stock remains outstanding, without the prior written consent of the holders of sixty-six and sixty-seven one hundredths percent (66.67%) of the outstanding shares of Series B Preferred Stock and Series B-1 Preferred Stock voting together as a single class, the Corporation shall not, nor shall it permit any Subsidiary to, redeem, purchase or otherwise acquire, directly or indirectly, any Junior Securities, nor shall the Corporation, directly or indirectly, pay or declare any dividend or make any distribution upon any Junior Securities.

**4. Redemptions.**

(a) **Redemption Payments.** For each Series B Share that is to be redeemed hereunder, the Corporation shall be obligated on the Redemption Date to pay to the holder thereof (upon surrender by such holder at the Corporation's principal office of the certificate representing such Series B Share) an amount in cash equal to the Series B Liquidation Value of such Series B Share (plus all accrued and unpaid dividends thereon). If the funds of the Corporation legally available for redemption of securities of the Corporation on any Redemption Date are insufficient to redeem the total number of Series B Shares to be redeemed on such date, then, except as otherwise provided herein, those funds that are legally available shall be used to redeem the maximum possible number of Series B Shares, pro rata in accordance with the following subsection (b). At any time thereafter when additional funds of the Corporation are legally available for the redemption of Shares, such funds shall immediately be used to redeem the balance of the Series B Shares which the Corporation has become obligated to redeem on any Redemption Date but has not redeemed. Prior to any redemption of Series B Preferred Stock, the Corporation shall declare for payment all accrued and unpaid dividends with respect to the Series B Shares, but only to the extent funds of the Corporation are legally available for the payment of dividends.

(b) **Determination of the Number of Each Holder's Series B Shares to be Redeemed.** Except as otherwise provided herein, the number of Series B Shares to be redeemed from each holder thereof in redemptions hereunder shall be the number of Series B Shares determined by multiplying the total number of Series B Shares to be redeemed times a fraction, the numerator of which shall be the total number of Series B Shares then held by such holder and the denominator of which shall be the total number of Series B Shares then outstanding.

(c) **Dividends After Redemption Date.** No Series B Share shall be entitled to any dividends accruing after the date on which the Series B Liquidation Value of such Series B Share (plus all accrued and unpaid dividends thereon) is fully paid to the holder of such Series

B Share. On such date, all rights of the holder of such Series B Share shall cease with respect thereto, and such Series B Share shall no longer be deemed to be issued and outstanding.

(d) **Redeemed or Otherwise Acquired Shares.** Any Series B Shares that are redeemed or otherwise acquired by the Corporation shall be canceled and retired to authorized but unissued shares and shall not be reissued, sold or transferred.

(e) **Payment of Accrued Dividends.** The Corporation may not redeem any Series B Preferred Stock, unless all dividends accrued on the outstanding Series B Preferred Stock through the date of such redemption have been declared and paid in full.

(f) **Special Redemptions.**

(i) If a Change in Ownership may occur or the Corporation obtains knowledge that a Change in Ownership is proposed to occur, the Corporation shall give prompt written notice of such Change in Ownership describing in reasonable detail the material terms and date of consummation thereof to each holder of Series B Preferred Stock, but in any event such notice shall not be given later than ten (10) days prior to the occurrence of such Change in Ownership, and the Corporation shall give each holder of Series B Preferred Stock prompt written notice of any material change in the terms or timing of such transaction. The holder or holders of sixty-six and sixty-seven one hundredths percent (66.67%) of the Series B Preferred Stock then outstanding may require the Corporation to redeem all or any portion of the Series B Preferred Stock owned by such holder or holders at a price per Series B Share equal to the Series B Liquidation Value thereof immediately prior to the Change in Ownership (plus all accrued and unpaid dividends thereon) by giving written notice to the Corporation of such election prior to the later of: (a) twenty-one (21) days after receipt of the Corporation's notice; or (b) five (5) days prior to the consummation of the Change in Ownership (the "Expiration Date"). The Corporation shall give prompt written notice of any such election to all other holders of Series B Preferred Stock within five (5) days after the receipt thereof, and each such holder shall have until the later of: (a) the Expiration Date, or (b) ten (10) days after receipt of such second notice to request redemption hereunder (by giving written notice to the Corporation) of all or any portion of the Series B Preferred Stock owned by such holder.

(1) Upon receipt of such election(s), the Corporation shall be obligated to redeem the aggregate number of Series B Shares specified therein on the later of: (a) the occurrence of the Change in Ownership; or (b) five (5) days after the Corporation's receipt of such election(s). If any proposed Change in Ownership does not occur, all requests for redemption in connection therewith shall be automatically rescinded, or if there has been a material change in the terms or the timing of the transaction, any holder of Series B Preferred Stock may rescind such holder's request for redemption by giving written notice of such rescission to the Corporation.

(2) The term "Change in Ownership" means any sale, transfer or issuance or series of sales, transfers and/or issuances of shares of the Corporation's capital stock by the Corporation or any holders thereof which results in any Person or group of Persons (as the term "group" is used under the Securities Exchange Act of 1934), other than the holders of Common Stock as of the date of the Series B Purchase Agreement, owning capital stock of the

Corporation possessing the voting power (under ordinary circumstances) to elect a majority of the Board.

(ii) If a Fundamental Change is proposed to occur, the Corporation shall give written notice of such Fundamental Change describing in reasonable detail the material terms and date of consummation thereof to each holder of Series B Preferred Stock not more than forty-five (45) days nor less than twenty (20) days prior to the consummation of such Fundamental Change, and the Corporation shall give each holder of Series B Preferred Stock prompt written notice of any material change in the terms or timing of such transaction. The holder or holders of sixty-six and sixty-seven one hundredths percent (66.67%) of the Series B Preferred Stock then outstanding may require the Corporation to redeem all or any portion of the Series B Preferred Stock owned by such holder or holders at a price per Series B Share equal to the Series B Liquidation Value thereof immediately prior to the Fundamental Change (plus all accrued and unpaid dividends thereon) by giving written notice to the Corporation of such election prior to the later of: (a) ten (10) days prior to the consummation of the Fundamental Change; or (b) ten (10) days after receipt of notice from the Corporation. The Corporation shall give prompt written notice of such election to all other holders of Series B Preferred Stock (but in any event within five (5) days prior to the consummation of the Fundamental Change), and each such holder shall have until two (2) days after the receipt of such notice to request redemption (by written notice given to the Corporation) of all or any portion of the Series B Preferred Stock owned by such holder.

(1) Upon receipt of such election(s), the Corporation shall be obligated to redeem the aggregate number of Series B Shares specified therein upon the consummation of such Fundamental Change. If any proposed Fundamental Change does not occur, all requests for redemption in connection therewith shall be automatically rescinded, or if there has been a material change in the terms or the timing of the transaction, any holder of Series B Preferred Stock may rescind such holder's request for redemption by delivering written notice thereof to the Corporation prior to the consummation of the transaction.

(2) The term "Fundamental Change" means: (a) any sale or transfer of more than fifty percent (50%) of the assets of the Corporation and its Subsidiaries on a consolidated basis (measured either by book value in accordance with generally accepted accounting principles consistently applied or by fair market value determined in the reasonable good faith judgment of the Board) in any transaction or series of transactions (other than sales in the ordinary course of business); and (b) any merger or consolidation to which the Corporation is a party, except for a merger in which (I) the Corporation is the surviving corporation, (II) the terms of the Preferred Stock are not changed (and no series or class of equity securities becomes *pari passu* with or senior in any way to (x) the Series B-1 Preferred Stock, except to the extent the Series B Preferred Stock and the Series A Preferred Stock are currently *pari passu* with the Series B-1 Preferred Stock pursuant to the terms hereof; (y) the Series B Preferred Stock, except to the extent the Series A Preferred Stock and Series B-1 Preferred Stock are currently senior to, or *pari passu* with, the Series B Preferred Stock pursuant to the terms hereof); and (z) the Series A Preferred Stock, except to the extent the Series B Preferred Stock and Series B-1 Preferred Stock are currently senior to, or *pari passu* with, the Series A Preferred Stock pursuant to the terms hereof), (III) no Preferred Stock is exchanged for cash, securities or other property, and (IV) after giving effect to such merger, the holders of the Corporation's outstanding capital stock



possessing a majority of the voting power (under ordinary circumstances) to elect a majority of the Board immediately prior to the merger shall continue to own the Corporation's outstanding capital stock possessing the voting power (under ordinary circumstances) to elect a majority of the Board.

(g) **Redemptions upon Request.** At any time after January 31, 2011, the holders of a majority of the outstanding Series B Preferred Stock may request redemption of all of the Series B Shares owned by such holder or holders by delivering written notice of such request to the Corporation. Within five (5) days after receipt of such request, the Corporation shall give written notice of such request to all other holders of Series B Preferred Stock, and such other holders may request redemption of their Series B Shares by delivering written notice to the Corporation within ten (10) days after receipt of the Corporation's notice. The Corporation shall be required to redeem all Series B Shares with respect to which such redemption requests have been made at a price per Series B Share equal to the Original Series B Purchase Price (plus all accrued and unpaid dividends thereon) within twenty (20) days after receipt of the initial redemption request.

## **5. Voting Rights.**

(a) **Election of Directors.** In the election of directors of the Corporation, in addition to the voting rights set forth in Article IV.A.3, the holders of the Series B Preferred Stock and the Series B-1 Preferred Stock, voting together as a single class to the exclusion of all other classes of the Corporation's capital stock and with each Series B Share and Series B-1 Share entitled to one vote, shall be entitled to elect one (1) director (the "*Series B Director*") to serve on the Board until such director's successor is duly elected by the holders of the Series B Preferred Stock and Series B-1 Preferred Stock or such director is removed from office by the holders of the Series B Preferred Stock and Series B-1 Preferred Stock. At such time as no Series B Shares or Series B-1 Shares are outstanding, any director in office elected solely by the holders of the Series B Preferred Stock and Series B-1 Preferred Stock voting separately as a class shall remain as a member of the Board until such time as his or her successor shall be duly elected by the shareholders of the Corporation then entitled to vote for directors acting together as a single class. If the holders of the Series B Preferred Stock and Series B-1 Preferred Stock for any reason fail to elect anyone to fill any such directorship (so long as they retain the right to fill such directorship), such position shall remain vacant until such time as the holders of the Series B Preferred Stock and Series B-1 Preferred Stock elect a director to fill such position and such vacancy shall not be filled by resolution or vote of the Board or the Corporation's other shareholders. In order to protect the representation on the Board granted to the holders of the Series B Preferred Stock and Series B-1 Preferred Stock, any expansion of the number of directors constituting the Board beyond nine (9) members, shall require, in addition to any other voting requirement set forth in the Articles of Incorporation, the vote of the holders of a majority of the Series B Preferred Stock and Series B-1 Preferred Stock issued and outstanding, voting together as a single class to the exclusion of all other classes of the Corporation's capital stock and with each share of Series B Preferred Stock and Series B-1 Preferred Stock entitled to one vote.

(b) **Committees.** To the extent any committees of the Board now exist or are hereafter created, the Series B Director shall have the right to be a member of any and all such

committees. The Series B Director may invoke such right at any time and from time to time (even following an earlier removal or resignation from a committee or previously declining to join a committee). Any actions taken by a committee of the Board, which committee does not include the Series B Director despite the Series B Director requesting to be a member of such committee, shall be void *ab initio*.

(c) **Other Voting Rights.** The holders of the Series B Preferred Stock shall be entitled to notice of all shareholders meetings in accordance with the Corporation's bylaws, and except in the election of directors and as otherwise required by applicable law, the holders of the Series B Preferred Stock shall be entitled to vote on all matters submitted to the shareholders for a vote together with the holders of all Junior Securities voting together as a single class with each share of Common Stock entitled to one vote per share and each Share of Preferred Stock entitled to one vote for each share of Common Stock issuable upon conversion of such share of Preferred Stock as of the record date for such vote or, if no record date is specified, as of the date of such vote.

## **6. Conversion.**

### **(a) Conversion Procedure.**

(i) At any time and from time to time, any holder of Series B Preferred Stock may convert all or any portion of the Series B Preferred Stock (including any fraction of a Series B Share) held by such holder into a number of shares of Series B Conversion Stock computed by multiplying the number of Series B Shares to be converted by the Original Series B Purchase Price and dividing the result by the Series B Conversion Price then in effect.

(ii) Except as otherwise provided herein, each conversion of Series B Preferred Stock shall be deemed to have been effected as of the close of business on the date on which the certificate or certificates representing the Series B Preferred Stock to be converted have been surrendered for conversion at the principal office of the Corporation. At the time any such conversion has been effected, the rights of the holder of the Series B Shares converted, with respect to such converted Series B Shares, shall cease and the Person or Persons in whose name or names any certificate or certificates for shares of Series B Conversion Stock are to be issued upon such conversion shall be deemed to have become the holder or holders of record of the shares of Series B Conversion Stock represented thereby.

(iii) The conversion rights of any Series B Share subject to redemption hereunder shall terminate on the Redemption Date for such Series B Share unless the Corporation has failed to pay to the holder thereof the Series B Liquidation Value (plus all accrued and unpaid dividends thereon and any premium payable with respect thereto).

(iv) Notwithstanding any other provision hereof, if a conversion of Series B Preferred Stock is to be made in connection with a Public Offering, a Change in Ownership, a Fundamental Change, a Liquidation Event, or other transaction affecting the Corporation, the conversion of any Series B Shares may, at the election of the holder thereof, be conditioned upon the consummation of such transaction, in which case such conversion shall not be deemed to be effective until such transaction has been consummated.

(v) As soon as possible after a conversion has been effected (but in any event within five (5) business days in the case of Article IV.B.6.(a)(v)(1) below), the Corporation shall deliver to the converting holder:

(1) a certificate or certificates representing the number of shares of Series B Conversion Stock issuable by reason of such conversion in such name or names and such denomination or denominations as the converting holder has specified;

(2) payment in an amount equal to all accrued dividends with respect to each Series B Share converted that have not been paid prior thereto, plus the amount payable under Article IV.B.6.(a)(x) below with respect to such conversion; and

(3) a certificate representing any Series B Shares that were represented by the certificate or certificates delivered to the Corporation in connection with such conversion but were not converted.

(vi) If for any reason the Corporation is unable to pay any portion of the accrued and unpaid dividends on Series B Preferred Stock being converted, such dividends may, at the converting holder's option and to the extent that there are authorized but unissued and unreserved shares of Series B Preferred Stock available for issuance by the Corporation, be converted into an additional number of shares of Series B Conversion Stock determined by dividing the amount of the unpaid dividends to be applied for such purpose, by the Series B Conversion Price then in effect.

(vii) The issuance of certificates for shares of Series B Conversion Stock upon conversion of Series B Preferred Stock shall be made without charge to the holders of such Series B Preferred Stock for any issuance tax in respect thereof or other cost incurred by the Corporation in connection with such conversion and the related issuance of shares of Series B Conversion Stock. Upon conversion of each Series B Share, the Corporation shall take all such actions as are necessary in order to insure that the Series B Conversion Stock issuable with respect to such conversion shall be validly issued, fully paid and nonassessable, free and clear of all taxes, liens, charges and encumbrances with respect to the issuance thereof.

(viii) The Corporation shall not close its books against the transfer of Series B Preferred Stock or of Series B Conversion Stock in any manner that interferes with the timely conversion of Series B Preferred Stock. The Corporation shall assist and cooperate with any holder of Series B Shares required to make any governmental filings or obtain any governmental approval prior to or in connection with any conversion of Series B Shares hereunder (including, without limitation, making any filings required to be made by the Corporation).

(ix) The Corporation shall at all times reserve and keep available out of its authorized but unissued capital stock, solely for the purpose of issuance upon the conversion of the Series B Preferred Stock, such number of shares of Series B Conversion Stock issuable upon the conversion of all outstanding Series B Preferred Stock. All shares of Series B Conversion Stock that are so issuable shall, when issued, be duly and validly issued, fully paid and nonassessable and free from all taxes, liens and charges. The Corporation shall take all such

actions as may be necessary to assure that all such shares of Series B Conversion Stock may be so issued without violation of any applicable law or governmental regulation or any requirements of any domestic securities exchange or market upon which shares of Series B Conversion Stock may be listed (except for official notice of issuance which shall be immediately delivered by the Corporation upon each such issuance). The Corporation shall not take any action that would cause the number of authorized but unissued shares of Series B Conversion Stock to be less than the number of such shares required to be reserved hereunder for issuance upon conversion of the Series B Preferred Stock.

(x) If any fractional interest in a share of Series B Conversion Stock would, except for the provisions of this Article IV.B.6.(a)(x), be delivered upon any conversion of the Series B Preferred Stock, the Corporation, in lieu of delivering the fractional share therefor, shall pay an amount to the holder thereof equal to the Market Price of such fractional interest as of the date of conversion.

(xi) If the shares of Series B Conversion Stock issuable by reason of conversion of Series B Preferred Stock are convertible into or exchangeable for any other stock or securities of the Corporation, the Corporation shall, at the converting holder's option, upon surrender of the Series B Shares to be converted by such holder as provided herein together with any notice, statement or payment required to effect such conversion or exchange of Series B Conversion Stock, deliver to such holder or as otherwise specified by such holder a certificate or certificates representing the stock or securities into which the shares of Series B Conversion Stock issuable by reason of such conversion are convertible or exchangeable, registered in such name or names and in such denomination or denominations as such holder has specified.

(b) **Series B Conversion Price.**

(i) The initial Series B Conversion Price will be ten dollars (\$10.00) (the "Initial Series B Conversion Price"). In order to prevent dilution of the conversion rights granted under this Article IV.B.6., the Series B Conversion Price shall be subject to adjustment from time to time pursuant to this Article IV.B.6. The Initial Series B Conversion Price, as adjusted pursuant to this Article IV.B.6., is referred to as the "Series B Conversion Price."

(ii) If and whenever on or after the original date of issuance of the Series B Preferred Stock the Corporation issues or sell, or in accordance with Article IV.B.6.(c) is deemed to have issued or sold, any shares of Common Stock for a consideration per share less than the Series B Conversion Price in effect immediately prior to such time, then immediately upon such issue or sale or deemed issue or sale the Series B Conversion Price shall be reduced to the lowest net price per share at which any such share of Common Stock has been issued or sold or is deemed to have been issued or sold. Notwithstanding anything to the contrary contained in Article IV.B.6.(c), the Initial Series B Conversion Price shall never be increased.

(c) **Effect on Series B Conversion Price of Certain Events.** For purposes of determining the adjusted Series B Conversion Price under Article IV.B.6.(b), the following shall be applicable:

(i) Issuance of Rights or Options. If the Corporation in any manner grants or sells any Option and the lowest price per share for which any one share of Common Stock is issuable upon the exercise of any such Option, or upon conversion or exchange of any Convertible Security issuable upon exercise of any such Option, is less than the Series B Conversion Price in effect immediately prior to the time of the granting or sale of such Option, then such share of Common Stock shall be deemed to be outstanding and to have been issued and sold by the Corporation at the time of the granting or sale of such Option for such price per share. For purposes of this paragraph, the "lowest price per share for which any one share of Common Stock is issuable" shall be equal to the sum of the lowest amounts of consideration (if any) received or receivable by the Corporation with respect to any one share of Common Stock upon the granting or sale of the Option, upon exercise of the Option and upon conversion or exchange of any Convertible Security issuable upon exercise of such Option. No further adjustment of the Series B Conversion Price shall be made upon the actual issue of such Common Stock or such Convertible Security upon the exercise of such Options or upon the actual issue of such Common Stock upon conversion or exchange of such Convertible Security, and on the termination of any such Option or any such right to convert or exchange such Convertible Security, the Series B Conversion Price then in effect hereunder shall immediately be increased to the Series B Conversion Price which would have been in effect at the time of such termination had such Option or Convertible Security, to the extent outstanding immediately prior to such termination, never been issued.

(ii) Issuance of Convertible Securities. If the Corporation in any manner issues or sells any Convertible Security and the lowest price per share for which any one share of Common Stock is issuable upon conversion or exchange thereof is less than the Series B Conversion Price in effect immediately prior to the time of such issue or sale, then such share of Common Stock shall be deemed to be outstanding and to have been issued and sold by the Corporation at the time of the issuance or sale of such Convertible Securities for such price per share. For the purposes of this paragraph, the "lowest price per share for which any one share of Common Stock is issuable" shall be equal to the sum of the lowest amounts of consideration (if any) received or receivable by the Corporation with respect to any one share of Common Stock upon the issuance or sale of the Convertible Security and upon the conversion or exchange of such Convertible Security. No further adjustment of the Series B Conversion Price shall be made upon the actual issue of such Common Stock upon conversion or exchange of any Convertible Security, and if any such issue or sale of such Convertible Security is made upon exercise of any Options for which adjustments of the Series B Conversion Price had been or are to be made pursuant to other provisions of this Article IV.B.6, no further adjustment of the Series B Conversion Price shall be made by reason of such issue or sale, and on the termination of any such right to convert or exchange such Convertible Security, the Series B Conversion Price then in effect hereunder shall immediately be increased to the Series B Conversion Price which would have been in effect at the time of such termination had such Convertible Security, to the extent outstanding immediately prior to such termination, never been issued.

(iii) Change in Option Price or Conversion Rate. If the purchase price provided for in any Option, the additional consideration (if any) payable upon the issue, conversion or exchange of any Convertible Security or the rate which any Convertible Security is convertible into or exchangeable for Common Stock changes at any time, the Series B Conversion Price in effect at the time of such change shall be adjusted immediately to the Series

B Conversion Price which would have been in effect at such time had such Option or Convertible Security originally provided for such changed purchase price, additional consideration or conversion rate, as the case may be, at the time initially granted, issued or sold; provided, that no such adjustment of the Series B Conversion Price shall result in an increase in the Series B Conversion Price. For purposes of Article IV.B.6.(c), if the terms of any Option or Convertible Security that was outstanding as of the date of issuance of the Series B Preferred Stock are changed in the manner described in the immediately preceding sentence, then such Option or Convertible Security and the Common Stock deemed issuable upon exercise, conversion or exchange thereof shall be deemed to have been issued as of the date of such change; provided, that no such change shall at any time cause the Series B Conversion Price hereunder to be increased.

(iv) Exception to Adjustment. Notwithstanding anything to the contrary in Article IV.B.6.(b) or (c), none of the adjustments contemplated thereby shall be applicable with respect to (I) the original issuance of options (or Common Stock issuable upon exercise of such options) to acquire up to, when all such options are aggregated (whether or not previously granted or exercised), One Million Five Hundred Sixty Thousand Eight Hundred Ninety-One (1,560,891) shares of Common Stock (as the same may be adjusted for any stock split or combination of the Common Stock of the Corporation), which are all approved by a duly appointed Compensation Committee of the Board, and each of which have an exercise price of at least the fair market value (as determined by such Committee) of the underlying Common Stock on the date of the award ("Excluded Options"), (II) the issuance of Common Stock upon the conversion of Series A Preferred Stock or the Series B-1 Preferred Stock, (III) the issuance of Common Stock upon the exercise or conversion of securities of the Corporation outstanding on October 4, 2004, including without limitation warrants of the Corporation issued on such date, or (IV) upon conversion of outstanding shares of UCT GmbH into shares of Common Stock.

(v) Calculation of Consideration Received. If any Common Stock, Option or Convertible Security is issued or sold or deemed to have been issued or sold for cash, the consideration received therefor shall be deemed to be the amount received by the Corporation therefor (net of discounts, commissions and related expenses). If any Common Stock, Option or Convertible Security is issued or sold for a consideration other than cash, the amount of the consideration other than cash received by the Corporation shall be: (1) if other than securities, the Fair Value of such consideration, and (2) if securities, the Market Price thereof as of the date of receipt; provided, that if any Common Stock, Option or Convertible Security is issued to the owners of the non-surviving entity in connection with any merger in which the Corporation is the surviving corporation, the amount of consideration therefor shall be deemed to be the Fair Value of such portion of the net assets and business of the non-surviving entity as is attributable to such Common Stock, Option or Convertible Security, as the case may be.

(vi) Treasury Shares. The number of shares of Common Stock outstanding at any given time shall not include shares owned or held by or for the account of the Corporation or any Subsidiary, and the disposition of any shares so owned or held shall be considered an issue or sale of Common Stock.

(vii) Record Date. If the Corporation takes a record of the holders of Common Stock for the purpose of entitling them: (a) to receive a dividend or other distribution

payable in Common Stock, Options or in Convertible Securities; or (b) to subscribe for or purchase Common Stock, Options or Convertible Securities, then such record date shall be deemed to be the date of the issue or sale of the shares of Common Stock deemed to have been issued or sold upon the declaration of such dividend or upon the making of such other distribution or the date of the granting of such right of subscription or purchase, as the case may be.

(d) **Subdivision or Combination of Common Stock.** If the Corporation at any time subdivides (by any stock split, stock dividend, recapitalization or otherwise) one or more classes of its outstanding shares of Common Stock into a greater number of shares, the Series B Conversion Price in effect immediately prior to such subdivision shall be proportionately reduced, and if the Corporation at any time combines (by reverse stock split or otherwise) one or more classes of its outstanding shares of Common Stock into a smaller number of shares, the Series B Conversion Price in effect immediately prior such combination shall be proportionately increased.

(e) **Reorganization, Reclassification, Consolidation, Merger or Sale.** Any recapitalization, reorganization, reclassification, consolidation, merger, sale of all or substantially all of the Corporation's assets or other transaction, in each case which is effected in such a manner that the holders of Common Stock are entitled to receive (either directly or upon subsequent liquidation) stock, securities or assets with respect to or in exchange for Common Stock, is referred to herein as an "Organic Change." Prior to the consummation of any Organic Change, the Corporation shall make appropriate provisions (in form and substance reasonably satisfactory to the holders of a majority of the Series B Preferred then outstanding) to insure that each of the holders of Series B Preferred Stock shall thereafter have the right to acquire and receive, in lieu of or in addition to (as the case may be) the shares of Series B Conversion Stock immediately theretofore acquirable and receivable upon the conversion of such holder's Series B Preferred Stock, such shares of stock, securities or assets as such holder would have received in connection with such Organic Change if such holder had already converted. In each such case, the Corporation shall also make appropriate provisions (in form and substance reasonably satisfactory to the holders of a majority of the Series B Preferred then outstanding) to insure that the provisions of this Article IV.B.6 and Article IV.B.8 hereof and the other relevant provisions hereof shall thereafter be applicable to the Series B Preferred Stock (including, in the case of any such consolidation, merger or sale in which the successor entity or purchasing entity is other than the Corporation, an immediate adjustment of the Series B Conversion price to the value for the Common Stock reflected by the terms of such consolidation, merger or sale, and a corresponding immediate adjustment in the number of shares of Series B Conversion Stock acquirable and receivable upon conversion of Series B Preferred Stock, if the value so reflected is less than the Series B Conversion Price in effect immediately prior to such consolidation, merger or sale). The Corporation shall not effect any such consolidation, merger or sale, unless prior to the consummation thereof, the successor entity (if other than the Corporation) resulting from consolidation or merger or the entity purchasing such assets assumes by written instrument (in form and substance satisfactory to the holders of a majority of the Series B Preferred Stock then outstanding), the obligation to deliver to each such holder such shares of stock, securities or assets as, in accordance with the foregoing provisions, such holder may be entitled to acquire.

(f) **Certain Events.** If any event occurs of the type contemplated by the provisions of this Article IV.B.6. but not expressly provided for by such provisions (including, without limitation, the granting of stock appreciation rights, phantom stock rights or other rights with equity features), then the Board shall make an appropriate adjustment in the Series B Conversion Price so as to protect the rights of the holders of Series B Preferred Stock; provided, that no such adjustment shall increase the Series B Conversion Price as otherwise determined pursuant to this Article IV.B.6. or decrease the number of shares of Series B Conversion Stock issuable upon conversion of each Series B Share.

(g) **Notices.**

(i) Immediately upon any adjustment of the Series B Conversion Price, the Corporation shall give written notice thereof to all holders of Series B Preferred Stock, setting forth in reasonable detail and certifying the calculation of such adjustment.

(ii) The Corporation shall give written notice to all holders of Series B Preferred Stock at least twenty (20) days prior to the date on which the Corporation closes its books or takes a record: (1) with respect to any dividend or distribution upon Common Stock; (2) with respect to any pro rata subscription offer to holders of Common Stock; or (3) for determining rights to vote with respect to any Organic Change or Liquidation Event.

(iii) The Corporation shall also give written notice to the holders of Series B Preferred Stock at least twenty (20) days prior to the date on which any Organic Change shall take place.

(h) **Automatic Conversion.** Upon the closing of an underwritten Qualified Public Offering, each of the outstanding Series B Shares automatically shall be converted into Conversion Shares.

7. **[Reserved.]**

8. **Preemptive Rights.**

(a) If the Corporation at any time prior to its initial Public Offering authorizes the issuance or sale of any securities, then the Corporation shall first offer to sell to each holder of Series B Preferred Stock that amount of the securities being offered equal to all of the securities being offered multiplied by a fraction, the numerator of which is equal to the number of shares of Common Stock that would be held by such holder if the Series B Preferred Stock, and all other securities convertible into or exchangeable for Common Stock, held by such holder was converted or exchanged immediately before such issuance, and the denominator of which is equal to the total number of shares of Common Stock outstanding immediately before such issuance (assuming all shares of Preferred Stock, and all other securities convertible into or exchangeable for Common Stock held by the holders of Series B Preferred Stock, were converted or exchanged). In the event that one or more holders of Series B Preferred Stock do not exercise their right to purchase their full allocation of securities hereunder (such securities, the "Unpurchased Allocated Securities"), such Unpurchased Allocated Securities shall be made available to those holders of Series B Preferred Stock who agreed to purchase their full allocation (the "Fully Exercising Purchasers"); provided, that in the event the Fully Exercising



Purchasers desire to purchase in the aggregate more than the available Unpurchased Allocated Securities, then the Unpurchased Allocated Securities shall be allocated among the Fully Exercising Purchasers pro rata based upon each Fully Exercising Purchaser's percentage ownership of Series B Preferred Stock in relation to the total number of Series B Preferred Stock held by all Fully Exercising Purchasers or in such other manner as the Fully Exercising Purchasers may mutually agree. Notwithstanding anything herein to the contrary, the purchase rights granted in this Section shall not apply: (a) to issuances of Excluded Options or the shares issued upon exercise thereof; (b) in connection with acquisitions approved by the Board and the holders of a majority of the outstanding Series B Preferred Stock; (c) pursuant to a Public Offering; (d) in connection with issuances where the holders of a majority of the outstanding Series B Preferred Stock waive such right in writing, or (e) in connection with the issuance of Common Stock as a dividend on outstanding shares of Common Stock.

(b) The holders of Series B Preferred Stock shall be entitled to purchase all or any portion of such capital stock at the most favorable price and on the most favorable terms as such capital stock is to be offered to any other Persons. At least forty-five (45) days prior to the contemplated transaction, the Corporation shall cause to be delivered to each holder of Series B Preferred Stock written notice from the Corporation (the "Series B First Notice") describing in reasonable detail the securities being offered, the purchase price thereof, the payment terms, and such holder's allotment. In order to exercise its purchase rights hereunder, a holder of Series B Preferred Stock must, within twenty (20) days after receipt of the Series B First Notice, deliver a written notice to the Corporation describing its election hereunder. Upon the expiration of the twenty (20) day acceptance period described above, the Corporation shall offer any Unpurchased Allocated Securities to each Fully Exercising Purchaser by causing to be delivered to each Fully Exercising Purchaser at least fifteen (15) days prior to the contemplated transaction written notice indicating the number of Unpurchased Allocated Securities available, and such Fully Exercising Purchaser's allotment (the "Series B Second Notice"). In order to exercise its further purchase right, a Fully Exercising Purchaser must, within seven (7) days after receipt of the Series B Second Notice, deliver a written notice to the Corporation indicating the number of Unpurchased Allocated Securities such Fully Exercising Purchaser desires to purchase. Thereafter, the Corporation shall be entitled to sell such securities that the holders of Series B Preferred Stock (following the offering to the Fully Exercising Purchasers), holders of the Series B-1 Preferred Stock (pursuant to the preemptive rights granted under Article IV.C.8 hereof), and holders of Series A Preferred Stock (pursuant to the preemptive rights granted under Article IV.D.8 hereof) have not elected to purchase during the ninety (90) days following the last to expire offering period on terms and conditions no different or more favorable to the purchasers thereof than those offered to such holder. Any securities offered or sold by the Corporation after such ninety (90) day period must be reoffered to the holders of Series B Preferred Stock pursuant to the terms of this paragraph.

#### **9. Amendment and Waiver.**

No amendment, modification or waiver shall be binding or effective with respect to any provision of the Articles of Incorporation without the prior written consent of the holders of a sixty-six and sixty-seven one hundredths percent (66.67%) of the Series B Preferred Stock outstanding at the time such action is taken; provided, that no change in the terms hereof may be accomplished by merger or consolidation of the Corporation with another corporation or entity

unless the Corporation has obtained the prior written consent of the holders of sixty-six and sixty-seven one hundredths percent (66.67%) of the Series B Preferred Stock then outstanding.

**C. Series B-1 Preferred Stock.** In addition to any rights and preferences with respect to the Series B-1 Preferred Stock set forth in Article IV.E hereof, the Series B-1 Preferred Stock shall have the following rights and preferences:

**1. Dividends.**

(a) **General Obligation.** Subject in all cases to Article IV.B.1 and Article IV.B.3, when and as declared by the Corporation's Board of Directors (the "Board") and to the extent permitted under the Florida Business Corporation Act, the Corporation shall pay preferential dividends in cash to the holders of the Series B-1 Preferred Stock as provided in this Article IV.C.1. The date on which the Corporation initially issues any share of Series B-1 Preferred Stock (a "Series B-1 Share") shall be deemed to be its "date of issuance" regardless of the number of times transfer of such share is made on the stock records maintained by or for the Corporation and regardless of the number of certificates which may be issued to evidence such Share. Notwithstanding anything herein to the contrary but subject to Article IV.B.1 and Article IV.B.3, (i) no dividend shall be declared or paid on any Junior Security unless, first, all accrued and unpaid dividends on the Series B-1 Preferred Stock shall have been paid in full, and (ii) no dividend shall be declared on any Junior Security unless a dividend is declared with respect to the Series B-1 Preferred Stock, which dividend, in the aggregate, shall be equal to the largest aggregate amount to be declared on any other class or series of Junior Securities.

(b) **Distribution of Partial Dividend Payments.** Except as otherwise provided herein, if at any time the Corporation pays less than the total amount of dividends then accrued with respect to the Series B-1 Preferred Stock, such payment shall be distributed pro rata among the holders thereof based upon the number of Series B-1 Shares held by each such holder.

**2. Liquidation.**

Upon any Liquidation Event, each holder of Series B-1 Preferred Stock shall be entitled to be paid, before any distribution or payment is made upon any Junior Securities (other than the Series A Preferred Stock and Series B Preferred Stock, which shall be *pari passu* with the holders of the Series B-1 Preferred Stock for this purpose), an amount in cash equal to the aggregate Series B-1 Liquidation Value of all Series B-1 Shares held by such holder (plus all accrued and unpaid dividends on such Series B-1 Preferred Stock), and the holders of Series B-1 Preferred Stock shall not be entitled to any further payment. If upon any such Liquidation Event the Corporation's assets to be distributed among the holders of the Series B-1 Preferred Stock, the Series B Preferred Stock, and the Series A Preferred Stock are insufficient to permit payment to such holders of the aggregate amount that they are entitled to be paid under this Article IV.C.2, (in the case of the holders of Series B-1 Preferred Stock), Article IV.B.2 (in the case of the holders of Series B Preferred Stock), and Article IV.D.2 (in the case of the holders of Series A Preferred Stock), then all assets available to be distributed to the Corporation's shareholders shall be distributed pro rata among the holders of the Series B Shares, the holders of the Series B-1 Shares, and the holders of the Series A Shares based upon the aggregate Series B Liquidation Value (plus all accrued and unpaid dividends on the Series B Shares), Series B-1

Liquidation Value (plus all accrued and unpaid dividends on the Series B-1 Shares), or Series A Liquidation Value (plus all accrued and unpaid dividends on the Series A Shares), as applicable, of the Series B Preferred Stock, the Series B-1 Preferred Stock, and Series A Preferred Stock held by each such holder. Prior to any Liquidation Event, the Corporation shall declare for payment all accrued and unpaid dividends with respect to the Series B-1 Preferred Stock, except to the extent the funds of the Corporation legally available for the payment of dividends are insufficient. Not less than sixty (60) days prior to the payment date stated therein, the Corporation shall mail written notice of any such Liquidation Event to each record holder of Series B-1 Preferred Stock, setting forth in reasonable detail the amount of proceeds to be paid with respect to each Series B Share, Series B-1 Share, Series A Share and each share of Common Stock in connection with such Liquidation Event.

**3. Priority of Series B-1 Preferred Stock on Dividends and Redemptions.**

So long as any Series B Preferred Stock or any Series B-1 Preferred Stock remains outstanding, without the prior written consent of the holders of sixty-six and sixty-seven one hundredths percent (66.67%) of the outstanding shares of Series B Preferred Stock and Series B-1 Preferred Stock voting together as a single class, the Corporation shall not, nor shall it permit any Subsidiary to, redeem, purchase or otherwise acquire, directly or indirectly, any Junior Securities, nor shall the Corporation, directly or indirectly, pay or declare any dividend or make any distribution upon any Junior Securities.

**4. Redemptions.**

(a) **Redemption Payments.** For each Series B-1 Share that is to be redeemed hereunder, the Corporation shall be obligated on the Redemption Date to pay to the holder thereof (upon surrender by such holder at the Corporation's principal office of the certificate representing such Series B-1 Share) an amount in cash equal to the Series B-1 Liquidation Value of such Series B-1 Share (plus all accrued and unpaid dividends thereon). If the funds of the Corporation legally available for redemption of securities of the Corporation on any Redemption Date are insufficient to redeem the total number of Series B-1 Shares to be redeemed on such date, then, except as otherwise provided herein, those funds that are legally available shall be used to redeem the maximum possible number of Series B-1 Shares, pro rata in accordance with the following subsection (b). At any time thereafter when additional funds of the Corporation are legally available for the redemption of Shares, such funds shall immediately be used to redeem the balance of the Series B-1 Shares which the Corporation has become obligated to redeem on any Redemption Date but has not redeemed. Prior to any redemption of Series B-1 Preferred Stock, the Corporation shall declare for payment all accrued and unpaid dividends with respect to the Series B-1 Shares, but only to the extent funds of the Corporation are legally available for the payment of dividends.

(b) **Determination of the Number of Each Holder's Series B-1 Shares to be Redeemed.** Except as otherwise provided herein, the number of Series B-1 Shares to be redeemed from each holder thereof in redemptions hereunder shall be the number of Series B-1 Shares determined by multiplying the total number of Series B-1 Shares to be redeemed times a fraction, the numerator of which shall be the total number of Series B-1 Shares then held by such

holder and the denominator of which shall be the total number of Series B-1 Shares then outstanding.

(c) **Dividends After Redemption Date.** No Series B-1 Share shall be entitled to any dividends accruing after the date on which the Series B-1 Liquidation Value of such Series B-1 Share (plus all accrued and unpaid dividends thereon) is fully paid to the holder of such Series B-1 Share. On such date, all rights of the holder of such Series B-1 Share shall cease with respect thereto, and such Series B-1 Share shall no longer be deemed to be issued and outstanding.

(d) **Redeemed or Otherwise Acquired Shares.** Any Series B-1 Shares that are redeemed or otherwise acquired by the Corporation shall be canceled and retired to authorized but unissued shares and shall not be reissued, sold or transferred.

(e) **Payment of Accrued Dividends.** The Corporation may not redeem any Series B-1 Preferred Stock, unless all dividends accrued on the outstanding Series B-1 Preferred Stock through the date of such redemption have been declared and paid in full.

(f) **Special Redemptions.**

(i) If a Change in Ownership may occur or the Corporation obtains knowledge that a Change in Ownership is proposed to occur, the Corporation shall give prompt written notice of such Change in Ownership describing in reasonable detail the material terms and date of consummation thereof to each holder of Series B-1 Preferred Stock, but in any event such notice shall not be given later than ten (10) days prior to the occurrence of such Change in Ownership, and the Corporation shall give each holder of Series B-1 Preferred Stock prompt written notice of any material change in the terms or timing of such transaction. The holder or holders of sixty-six and sixty-seven one hundredths percent (66.67%) of the Series B-1 Preferred Stock then outstanding may require the Corporation to redeem all or any portion of the Series B-1 Preferred Stock owned by such holder or holders at a price per Series B-1 Share equal to the Series B-1 Liquidation Value thereof immediately prior to the Change in Ownership (plus all accrued and unpaid dividends thereon) by giving written notice to the Corporation of such election prior to the later of: (a) twenty-one (21) days after receipt of the Corporation's notice; or (b) five (5) days prior to the consummation of the Change in Ownership (the "Expiration Date"). The Corporation shall give prompt written notice of any such election to all other holders of Series B-1 Preferred Stock within five (5) days after the receipt thereof, and each such holder shall have until the later of: (a) the Expiration Date, or (b) ten (10) days after receipt of such second notice to request redemption hereunder (by giving written notice to the Corporation) of all or any portion of the Series B-1 Preferred Stock owned by such holder.

(1) Upon receipt of such election(s), the Corporation shall be obligated to redeem the aggregate number of Series B-1 Shares specified therein on the later of: (a) the occurrence of the Change in Ownership; or (b) five (5) days after the Corporation's receipt of such election(s). If any proposed Change in Ownership does not occur, all requests for redemption in connection therewith shall be automatically rescinded, or if there has been a material change in the terms or the timing of the transaction, any holder of Series B-1 Preferred

Stock may rescind such holder's request for redemption by giving written notice of such rescission to the Corporation.

(2) The term "Change in Ownership" means any sale, transfer or issuance or series of sales, transfers and/or issuances of shares of the Corporation's capital stock by the Corporation or any holders thereof which results in any Person or group of Persons (as the term "group" is used under the Securities Exchange Act of 1934), other than the holders of Common Stock as of the date of the Series B-1 Purchase Agreement, owning capital stock of the Corporation possessing the voting power (under ordinary circumstances) to elect a majority of the Board.

(ii) If a Fundamental Change is proposed to occur, the Corporation shall give written notice of such Fundamental Change describing in reasonable detail the material terms and date of consummation thereof to each holder of Series B-1 Preferred Stock not more than forty-five (45) days nor less than twenty (20) days prior to the consummation of such Fundamental Change, and the Corporation shall give each holder of Series B-1 Preferred Stock prompt written notice of any material change in the terms or timing of such transaction. The holder or holders of sixty-six and sixty-seven one hundredths percent (66.67%) of the Series B-1 Preferred Stock then outstanding may require the Corporation to redeem all or any portion of the Series B-1 Preferred Stock owned by such holder or holders at a price per Series B-1 Share equal to the Series B-1 Liquidation Value thereof immediately prior to the Fundamental Change (plus all accrued and unpaid dividends thereon) by giving written notice to the Corporation of such election prior to the later of: (a) ten (10) days prior to the consummation of the Fundamental Change; or (b) ten (10) days after receipt of notice from the Corporation. The Corporation shall give prompt written notice of such election to all other holders of Series B-1 Preferred Stock (but in any event within five (5) days prior to the consummation of the Fundamental Change), and each such holder shall have until two (2) days after the receipt of such notice to request redemption (by written notice given to the Corporation) of all or any portion of the Series B-1 Preferred Stock owned by such holder.

(1) Upon receipt of such election(s), the Corporation shall be obligated to redeem the aggregate number of Series B-1 Shares specified therein upon the consummation of such Fundamental Change. If any proposed Fundamental Change does not occur, all requests for redemption in connection therewith shall be automatically rescinded, or if there has been a material change in the terms or the timing of the transaction, any holder of Series B-1 Preferred Stock may rescind such holder's request for redemption by delivering written notice thereof to the Corporation prior to the consummation of the transaction.

(g) **Redemptions upon Request.** At any time after January 31, 2011, the holders of a majority of the outstanding Series B-1 Preferred Stock may request redemption of all of the Series B-1 Shares owned by such holder or holders by delivering written notice of such request to the Corporation. Within five (5) days after receipt of such request, the Corporation shall give written notice of such request to all other holders of Series B-1 Preferred Stock, and such other holders may request redemption of their Series B-1 Shares by delivering written notice to the Corporation within ten (10) days after receipt of the Corporation's notice. The Corporation shall be required to redeem all Series B-1 Shares with respect to which such redemption requests have been made at a price per Series B-1 Share equal to the Original Series

B-1 Purchase Price (plus all accrued and unpaid dividends thereon) within twenty (20) days after receipt of the initial redemption request.

**5. Voting Rights.**

(a) **Election of Directors.** In the election of directors of the Corporation, in addition to the voting rights set forth in Article IV.A.3, the holders of the Series B Preferred Stock and the Series B-1 Preferred Stock, voting together as a single class to the exclusion of all other classes of the Corporation's capital stock and with each Series B Share and Series B-1 Share entitled to one vote, shall be entitled to elect one (1) director (the "Series B Director") to serve on the Board until such director's successor is duly elected by the holders of the Series B Preferred Stock and Series B-1 Preferred Stock or such director is removed from office by the holders of the Series B Preferred Stock and Series B-1 Preferred Stock. At such time as no Series B Shares or Series B-1 Shares are outstanding, any director in office elected solely by the holders of the Series B Preferred Stock and Series B-1 Preferred Stock voting separately as a class shall remain as a member of the Board until such time as his or her successor shall be duly elected by the shareholders of the Corporation then entitled to vote for directors acting together as a single class. If the holders of the Series B Preferred Stock and Series B-1 Preferred Stock for any reason fail to elect anyone to fill any such directorship (so long as they retain the right to fill such directorship), such position shall remain vacant until such time as the holders of the Series B Preferred Stock and Series B-1 Preferred Stock elect a director to fill such position and such vacancy shall not be filled by resolution or vote of the Board or the Corporation's other shareholders. In order to protect the representation on the Board granted to the holders of the Series B Preferred Stock and Series B-1 Preferred Stock, any expansion of the number of directors constituting the Board beyond nine (9) members, shall require, in addition to any other voting requirement set forth in the Articles of Incorporation, the vote of the holders of a majority of the Series B Preferred Stock and Series B-1 Preferred Stock issued and outstanding, voting separately as a single class to the exclusion of all other classes of the Corporation's capital stock and with each share of Series B Preferred Stock and Series B-1 Preferred Stock entitled to one vote.

(b) **Other Voting Rights.** The holders of the Series B-1 Preferred Stock shall be entitled to notice of all shareholders meetings in accordance with the Corporation's bylaws, and except in the election of directors and as otherwise required by applicable law, the holders of the Series B-1 Preferred Stock shall be entitled to vote on all matters submitted to the shareholders for a vote together with the holders of all Junior Securities voting together as a single class with each share of Common Stock entitled to one vote per share and each Share of Preferred Stock entitled to one vote for each share of Common Stock issuable upon conversion of such share of Preferred Stock as of the record date for such vote or, if no record date is specified, as of the date of such vote.

**6. Conversion.**

(a) **Conversion Procedure.**

(i) At any time and from time to time, any holder of Series B-1 Preferred Stock may convert all or any portion of the Series B-1 Preferred Stock (including any

fraction of a Series B-1 Share) held by such holder into a number of shares of Series B-1 Conversion Stock computed by multiplying the number of Series B-1 Shares to be converted by the Original Series B-1 Purchase Price and dividing the result by the Series B-1 Conversion Price then in effect.

(ii) Except as otherwise provided herein, each conversion of Series B-1 Preferred Stock shall be deemed to have been effected as of the close of business on the date on which the certificate or certificates representing the Series B-1 Preferred Stock to be converted have been surrendered for conversion at the principal office of the Corporation. At the time any such conversion has been effected, the rights of the holder of the Series B-1 Shares converted, with respect to such converted Series B-1 Shares, shall cease and the Person or Persons in whose name or names any certificate or certificates for shares of Series B-1 Conversion Stock are to be issued upon such conversion shall be deemed to have become the holder or holders of record of the shares of Series B-1 Conversion Stock represented thereby.

(iii) The conversion rights of any Series B-1 Share subject to redemption hereunder shall terminate on the Redemption Date for such Series B-1 Share unless the Corporation has failed to pay to the holder thereof the Series B-1 Liquidation Value (plus all accrued and unpaid dividends thereon and any premium payable with respect thereto).

(iv) Notwithstanding any other provision hereof, if a conversion of Series B-1 Preferred Stock is to be made in connection with a Public Offering, a Change in Ownership, a Fundamental Change, a Liquidation Event, or other transaction affecting the Corporation, the conversion of any Series B-1 Shares may, at the election of the holder thereof, be conditioned upon the consummation of such transaction, in which case such conversion shall not be deemed to be effective until such transaction has been consummated.

(v) As soon as possible after a conversion has been effected (but in any event within five (5) business days in the case of Article IV.C.6.(a)(v)(1) below), the Corporation shall deliver to the converting holder:

(1) a certificate or certificates representing the number of shares of Series B Conversion Stock issuable by reason of such conversion in such name or names and such denomination or denominations as the converting holder has specified;

(2) payment in an amount equal to all accrued dividends with respect to each Series B Share converted that have not been paid prior thereto, plus the amount payable under Article IV.C.6.(a)(x) below with respect to such conversion; and

(3) a certificate representing any Series B-1 Shares that were represented by the certificate or certificates delivered to the Corporation in connection with such conversion but were not converted.

(vi) If for any reason the Corporation is unable to pay any portion of the accrued and unpaid dividends on Series B-1 Preferred Stock being converted, such dividends may, at the converting holder's option and to the extent that there are authorized but unissued and unreserved shares of Series B-1 Preferred Stock available for issuance by the Corporation, be converted into an additional number of shares of Series B-1 Conversion Stock determined by

dividing the amount of the unpaid dividends to be applied for such purpose, by the Series B-1 Conversion Price then in effect.

(vii) The issuance of certificates for shares of Series B-1 Conversion Stock upon conversion of Series B-1 Preferred Stock shall be made without charge to the holders of such Series B-1 Preferred Stock for any issuance tax in respect thereof or other cost incurred by the Corporation in connection with such conversion and the related issuance of shares of Series B-1 Conversion Stock. Upon conversion of each Series B-1 Share, the Corporation shall take all such actions as are necessary in order to insure that the Series B-1 Conversion Stock issuable with respect to such conversion shall be validly issued, fully paid and nonassessable, free and clear of all taxes, liens, charges and encumbrances with respect to the issuance thereof.

(viii) The Corporation shall not close its books against the transfer of Series B-1 Preferred Stock or of Series B-1 Conversion Stock in any manner that interferes with the timely conversion of Series B-1 Preferred Stock. The Corporation shall assist and cooperate with any holder of Series B-1 Shares required to make any governmental filings or obtain any governmental approval prior to or in connection with any conversion of Series B-1 Shares hereunder (including, without limitation, making any filings required to be made by the Corporation).

(ix) The Corporation shall at all times reserve and keep available out of its authorized but unissued capital stock, solely for the purpose of issuance upon the conversion of the Series B-1 Preferred Stock, such number of shares of Series B-1 Conversion Stock issuable upon the conversion of all outstanding Series B-1 Preferred Stock. All shares of Series B-1 Conversion Stock that are so issuable shall, when issued, be duly and validly issued, fully paid and nonassessable and free from all taxes, liens and charges. The Corporation shall take all such actions as may be necessary to assure that all such shares of Series B-1 Conversion Stock may be so issued without violation of any applicable law or governmental regulation or any requirements of any domestic securities exchange or market upon which shares of Series B-1 Conversion Stock may be listed (except for official notice of issuance which shall be immediately delivered by the Corporation upon each such issuance). The Corporation shall not take any action that would cause the number of authorized but unissued shares of Series B-1 Conversion Stock to be less than the number of such shares required to be reserved hereunder for issuance upon conversion of the Series B-1 Preferred Stock.

(x) If any fractional interest in a share of Series B-1 Conversion Stock would, except for the provisions of this Article IV.C.6.(a)(x), be delivered upon any conversion of the Series B-1 Preferred Stock, the Corporation, in lieu of delivering the fractional share therefor, shall pay an amount to the holder thereof equal to the Market Price of such fractional interest as of the date of conversion.

(xi) If the shares of Series B-1 Conversion Stock issuable by reason of conversion of Series B-1 Preferred Stock are convertible into or exchangeable for any other stock or securities of the Corporation, the Corporation shall, at the converting holder's option, upon surrender of the Series B-1 Shares to be converted by such holder as provided herein together with any notice, statement or payment required to effect such conversion or exchange of Series B-1 Conversion Stock, deliver to such holder or as otherwise specified by such holder a



certificate or certificates representing the stock or securities into which the shares of Series B-1 Conversion Stock issuable by reason of such conversion are convertible or exchangeable, registered in such name or names and in such denomination or denominations as such holder has specified.

(b) **Series B-1 Conversion Price.**

(i) The initial Series B-1 Conversion Price will be three dollars and thirty three cents (\$3.33) (the “Initial Series B-1 Conversion Price”). In order to prevent dilution of the conversion rights granted under this Article IV.C.6., the Series B-1 Conversion Price shall be subject to adjustment from time to time pursuant to this Article IV.C.6. The Initial Series B-1 Conversion Price, as adjusted pursuant to this Article IV.C.6., is referred to as the “Series B-1 Conversion Price.”

(ii) If and whenever on or after the original date of issuance of the Series B-1 Preferred Stock the Corporation issues or sell, or in accordance with Article IV.C.6.(c) is deemed to have issued or sold, any shares of Common Stock for a consideration per share less than the Series B-1 Conversion Price in effect immediately prior to such time, then immediately upon such issue or sale or deemed issue or sale the Series B-1 Conversion Price shall be reduced to the lowest net price per share at which any such share of Common Stock has been issued or sold or is deemed to have been issued or sold. Notwithstanding anything to the contrary contained in Article IV.C.6.(c), the Initial Series B-1 Conversion Price shall never be increased.

(c) **Effect on Series B-1 Conversion Price of Certain Events.** For purposes of determining the adjusted Series B-1 Conversion Price under Article IV.C.6.(b), the following shall be applicable:

(i) **Issuance of Rights or Options.** If the Corporation in any manner grants or sells any Option and the lowest price per share for which any one share of Common Stock is issuable upon the exercise of any such Option, or upon conversion or exchange of any Convertible Security issuable upon exercise of any such Option, is less than the Series B-1 Conversion Price in effect immediately prior to the time of the granting or sale of such Option, then such share of Common Stock shall be deemed to be outstanding and to have been issued and sold by the Corporation at the time of the granting or sale of such Option for such price per share. For purposes of this paragraph, the “lowest price per share for which any one share of Common Stock is issuable” shall be equal to the sum of the lowest amounts of consideration (if any) received or receivable by the Corporation with respect to any one share of Common Stock upon the granting or sale of the Option, upon exercise of the Option and upon conversion or exchange of any Convertible Security issuable upon exercise of such Option. No further adjustment of the Series B-1 Conversion Price shall be made upon the actual issue of such Common Stock or such Convertible Security upon the exercise of such Options or upon the actual issue of such Common Stock upon conversion or exchange of such Convertible Security, and on the termination of any such Option or any such right to convert or exchange such Convertible Security, the Series B-1 Conversion Price then in effect hereunder shall immediately be increased to the Series B-1 Conversion Price which would have been in effect at the time of

such termination had such Option or Convertible Security, to the extent outstanding immediately prior to such termination, never been issued.

(ii) Issuance of Convertible Securities. If the Corporation in any manner issues or sells any Convertible Security and the lowest price per share for which any one share of Common Stock is issuable upon conversion or exchange thereof is less than the Series B-1 Conversion Price in effect immediately prior to the time of such issue or sale, then such share of Common Stock shall be deemed to be outstanding and to have been issued and sold by the Corporation at the time of the issuance or sale of such Convertible Securities for such price per share. For the purposes of this paragraph, the "lowest price per share for which any one share of Common Stock is issuable" shall be equal to the sum of the lowest amounts of consideration (if any) received or receivable by the Corporation with respect to any one share of Common Stock upon the issuance or sale of the Convertible Security and upon the conversion or exchange of such Convertible Security. No further adjustment of the Series B-1 Conversion Price shall be made upon the actual issue of such Common Stock upon conversion or exchange of any Convertible Security, and if any such issue or sale of such Convertible Security is made upon exercise of any Options for which adjustments of the Series B-1 Conversion Price had been or are to be made pursuant to other provisions of this Article IV.C.6, no further adjustment of the Series B-1 Conversion Price shall be made by reason of such issue or sale, and on the termination of any such right to convert or exchange such Convertible Security, the Series B-1 Conversion Price then in effect hereunder shall immediately be increased to the Series B-1 Conversion Price which would have been in effect at the time of such termination had such Convertible Security, to the extent outstanding immediately prior to such termination, never been issued.

(iii) Change in Option Price or Conversion Rate. If the purchase price provided for in any Option, the additional consideration (if any) payable upon the issue, conversion or exchange of any Convertible Security or the rate which any Convertible Security is convertible into or exchangeable for Common Stock changes at any time, the Series B-1 Conversion Price in effect at the time of such change shall be adjusted immediately to the Series B-1 Conversion Price which would have been in effect at such time had such Option or Convertible Security originally provided for such changed purchase price, additional consideration or conversion rate, as the case may be, at the time initially granted, issued or sold; provided, that no such adjustment of the Series B-1 Conversion Price shall result in an increase in the Series B-1 Conversion Price. For purposes of Article IV.C.6(c), if the terms of any Option or Convertible Security that was outstanding as of the date of issuance of the Series B-1 Preferred Stock are changed in the manner described in the immediately preceding sentence, then such Option or Convertible Security and the Common Stock deemed issuable upon exercise, conversion or exchange thereof shall be deemed to have been issued as of the date of such change; provided, that no such change shall at any time cause the Series B-1 Conversion Price hereunder to be increased.

(iv) Exception to Adjustment. Notwithstanding anything to the contrary in Article IV.C.6(b) or (c), none of the adjustments contemplated thereby shall be applicable with respect to (I) the original issuance of options (or Common Stock issuable upon exercise of such options) to acquire up to, when all such options are aggregated (whether or not previously granted or exercised), One Million Five Hundred Sixty Thousand Eight Hundred

Ninety-One (1,560,891) shares of Common Stock (as the same may be adjusted for any stock split or combination of the Common Stock of the Corporation), which are all approved by a duly appointed Compensation Committee of the Board, and each of which have an exercise price of at least the fair market value (as determined by such Committee) of the underlying Common Stock on the date of the award ("Excluded Options"), (II) the issuance of Common Stock upon the conversion of Series B Preferred Stock or Series A Preferred Stock, (III) the issuance of Common Stock upon the exercise or conversion of securities of the Corporation outstanding on October 4, 2004, including without limitation warrants of the Corporation issued on such date, or (IV) upon conversion of outstanding shares of UCT GmbH into shares of Common Stock.

(v) Calculation of Consideration Received. If any Common Stock, Option or Convertible Security is issued or sold or deemed to have been issued or sold for cash, the consideration received therefor shall be deemed to be the amount received by the Corporation therefor (net of discounts, commissions and related expenses). If any Common Stock, Option or Convertible Security is issued or sold for a consideration other than cash, the amount of the consideration other than cash received by the Corporation shall be: (1) if other than securities, the Fair Value of such consideration, and (2) if securities, the Market Price thereof as of the date of receipt; provided, that if any Common Stock, Option or Convertible Security is issued to the owners of the non-surviving entity in connection with any merger in which the Corporation is the surviving corporation, the amount of consideration therefor shall be deemed to be the Fair Value of such portion of the net assets and business of the non-surviving entity as is attributable to such Common Stock, Option or Convertible Security, as the case may be.

(vi) Treasury Shares. The number of shares of Common Stock outstanding at any given time shall not include shares owned or held by or for the account of the Corporation or any Subsidiary, and the disposition of any shares so owned or held shall be considered an issue or sale of Common Stock.

(vii) Record Date. If the Corporation takes a record of the holders of Common Stock for the purpose of entitling them: (a) to receive a dividend or other distribution payable in Common Stock, Options or in Convertible Securities; or (b) to subscribe for or purchase Common Stock, Options or Convertible Securities, then such record date shall be deemed to be the date of the issue or sale of the shares of Common Stock deemed to have been issued or sold upon the declaration of such dividend or upon the making of such other distribution or the date of the granting of such right of subscription or purchase, as the case may be.

(d) Subdivision or Combination of Common Stock. If the Corporation at any time subdivides (by any stock split, stock dividend, recapitalization or otherwise) one or more classes of its outstanding shares of Common Stock into a greater number of shares, the Series B-1 Conversion Price in effect immediately prior to such subdivision shall be proportionately reduced, and if the Corporation at any time combines (by reverse stock split or otherwise) one or more classes of its outstanding shares of Common Stock into a smaller number of shares, the Series B-1 Conversion Price in effect immediately prior such combination shall be proportionately increased.

(e) **Reorganization, Reclassification, Consolidation, Merger or Sale.** Any recapitalization, reorganization, reclassification, consolidation, merger, sale of all or substantially all of the Corporation's assets or other transaction, in each case which is effected in such a manner that the holders of Common Stock are entitled to receive (either directly or upon subsequent liquidation) stock, securities or assets with respect to or in exchange for Common Stock, is referred to herein as an "Organic Change." Prior to the consummation of any Organic Change, the Corporation shall make appropriate provisions (in form and substance reasonably satisfactory to the holders of a majority of the Series B-1 Preferred then outstanding) to insure that each of the holders of Series B-1 Preferred Stock shall thereafter have the right to acquire and receive, in lieu of or in addition to (as the case may be) the shares of Series B-1 Conversion Stock immediately theretofore acquirable and receivable upon the conversion of such holder's Series B-1 Preferred Stock, such shares of stock, securities or assets as such holder would have received in connection with such Organic Change if such holder had already converted. In each such case, the Corporation shall also make appropriate provisions (in form and substance reasonably satisfactory to the holders of a majority of the Series B-1 Preferred then outstanding) to insure that the provisions of this Article IV.C.6 and Article IV.C.8 hereof and the other relevant provisions hereof shall thereafter be applicable to the Series B-1 Preferred Stock (including, in the case of any such consolidation, merger or sale in which the successor entity or purchasing entity is other than the Corporation, an immediate adjustment of the Series B-1 Conversion price to the value for the Common Stock reflected by the terms of such consolidation, merger or sale, and a corresponding immediate adjustment in the number of shares of Series B-1 Conversion Stock acquirable and receivable upon conversion of Series B-1 Preferred Stock, if the value so reflected is less than the Series B-1 Conversion Price in effect immediately prior to such consolidation, merger or sale). The Corporation shall not effect any such consolidation, merger or sale, unless prior to the consummation thereof, the successor entity (if other than the Corporation) resulting from consolidation or merger or the entity purchasing such assets assumes by written instrument (in form and substance satisfactory to the holders of a majority of the Series B-1 Preferred Stock then outstanding), the obligation to deliver to each such holder such shares of stock, securities or assets as, in accordance with the foregoing provisions, such holder may be entitled to acquire.

(f) **Certain Events.** If any event occurs of the type contemplated by the provisions of this Article IV.C.6, but not expressly provided for by such provisions (including, without limitation, the granting of stock appreciation rights, phantom stock rights or other rights with equity features), then the Board shall make an appropriate adjustment in the Series B-1 Conversion Price so as to protect the rights of the holders of Series B-1 Preferred Stock; provided, that no such adjustment shall increase the Series B-1 Conversion Price as otherwise determined pursuant to this Article IV.C.6, or decrease the number of shares of Series B-1 Conversion Stock issuable upon conversion of each Series B-1 Share.

(g) **Notices.**

(i) Immediately upon any adjustment of the Series B-1 Conversion Price, the Corporation shall give written notice thereof to all holders of Series B-1 Preferred Stock, setting forth in reasonable detail and certifying the calculation of such adjustment.

(ii) The Corporation shall give written notice to all holders of Series B-1 Preferred Stock at least twenty (20) days prior to the date on which the Corporation closes its books or takes a record: (1) with respect to any dividend or distribution upon Common Stock; (2) with respect to any pro rata subscription offer to holders of Common Stock; or (3) for determining rights to vote with respect to any Organic Change or Liquidation Event.

(iii) The Corporation shall also give written notice to the holders of Series B-1 Preferred Stock at least twenty (20) days prior to the date on which any Organic Change shall take place.

(h) **Automatic Conversion.** Upon the closing of an underwritten Qualified Public Offering, each of the outstanding Series B-1 Shares automatically shall be converted into Conversion Shares.

7. **[Reserved.]**

8. **Preemptive Rights.**

(a) If the Corporation at any time prior to its initial Public Offering authorizes the issuance or sale of any securities, then the Corporation shall first offer to sell to each holder of Series B-1 Preferred Stock that amount of the securities being offered equal to all of the securities being offered multiplied by a fraction, the numerator of which is equal to the number of shares of Common Stock that would be held by such holder if the Series B-1 Preferred Stock, and all other securities convertible into or exchangeable for Common Stock, held by such holder was converted or exchanged immediately before such issuance, and the denominator of which is equal to the total number of shares of Common Stock outstanding immediately before such issuance (assuming all shares of Preferred Stock, and all other securities convertible into or exchangeable for Common Stock held by the holders of Series B-1 Preferred Stock, were converted or exchanged). In the event that one or more holders of Series B-1 Preferred Stock do not exercise their right to purchase their full allocation of securities hereunder (such securities, the "Unpurchased Allocated Securities"), such Unpurchased Allocated Securities shall be made available to those holders of Series B-1 Preferred Stock who agreed to purchase their full allocation (the "Fully Exercising Purchasers"); provided, that in the event the Fully Exercising Purchasers desire to purchase in the aggregate more than the available Unpurchased Allocated Securities, then the Unpurchased Allocated Securities shall be allocated among the Fully Exercising Purchasers pro rata based upon each Fully Exercising Purchaser's percentage ownership of Series B-1 Preferred Stock in relation to the total number of Series B-1 Preferred Stock held by all Fully Exercising Purchasers or in such other manner as the Fully Exercising Purchasers may mutually agree. Notwithstanding anything herein to the contrary, the purchase rights granted in this Section shall not apply: (a) to issuances of Excluded Options or the shares issued upon exercise thereof; (b) in connection with acquisitions approved by the Board and the holders of a majority of the outstanding Series B-1 Preferred Stock; (c) pursuant to a Public Offering; (d) in connection with issuances where the holders of a majority of the outstanding Series B-1 Preferred Stock waive such right in writing, or (e) in connection with the issuance of Common Stock as a dividend on outstanding shares of Common Stock.

(b) The holders of Series B-1 Preferred Stock shall be entitled to purchase all or any portion of such capital stock at the most favorable price and on the most favorable terms as such capital stock is to be offered to any other Persons. At least forty-five (45) days prior to the contemplated transaction, the Corporation shall cause to be delivered to each holder of Series B-1 Preferred Stock written notice from the Corporation (the "Series B-1 First Notice") describing in reasonable detail the securities being offered, the purchase price thereof, the payment terms, and such holder's allotment. In order to exercise its purchase rights hereunder, a holder of Series B-1 Preferred Stock must, within twenty (20) days after receipt of the Series B-1 First Notice, deliver a written notice to the Corporation describing its election hereunder. Upon the expiration of the twenty (20) day acceptance period described above, the Corporation shall offer any Unpurchased Allocated Securities to each Fully Exercising Purchaser by causing to be delivered to each Fully Exercising Purchaser at least fifteen (15) days prior to the contemplated transaction written notice indicating the number of Unpurchased Allocated Securities available, and such Fully Exercising Purchaser's allotment (the "Series B-1 Second Notice"). In order to exercise its further purchase right, a Fully Exercising Purchaser must, within seven (7) days after receipt of the Series B-1 Second Notice, deliver a written notice to the Corporation indicating the number of Unpurchased Allocated Securities such Fully Exercising Purchaser desires to purchase. Thereafter, the Corporation shall be entitled to sell such securities that the holders of Series B-1 Preferred Stock (following the offering to the Fully Exercising Purchasers), holders of Series B Preferred Stock (pursuant to the preemptive rights granted under Article IV.B.8 hereof), and holders of Series A Preferred Stock (pursuant to the preemptive rights granted under Article IV.D.8 hereof) have not elected to purchase during the ninety (90) days following the last to expire offering period on terms and conditions no different or more favorable to the purchasers thereof than those offered to such holder. Any securities offered or sold by the Corporation after such ninety (90) day period must be reoffered to the holders of Series B-1 Preferred Stock pursuant to the terms of this paragraph.

**9. Amendment and Waiver.**

No amendment, modification or waiver shall be binding or effective with respect to any provision of the Articles of Incorporation without the prior written consent of the holders of a sixty-six and sixty-seven one hundredths percent (66.67%) of the Class B-1 Preferred Stock outstanding at the time such action is taken; provided, that no change in the terms hereof may be accomplished by merger or consolidation of the Corporation with another corporation or entity unless the Corporation has obtained the prior written consent of the holders of sixty-six and sixty-seven one hundredths percent (66.67%) of the Series B-1 Preferred Stock then outstanding.

**D. Series A Preferred Stock.** In addition to any rights and preferences with respect to the Series A Preferred Stock set forth in Article IV.D hereof, the Series A Preferred Stock shall have the following rights and preferences:

**1. Dividends.**

(a) **General Obligation.** Subject in all cases to Article IV.B.1, Article IV.B.3, Article IV.C.1, and Article IV.C.3 when and as declared by the Board and to the extent permitted under the Florida Business Corporation Act, the Corporation shall pay dividends in cash to the holders of the Series A Preferred Stock as provided in this Article IV.D.1. The date

on which the Corporation initially issues any share of Series A Preferred Stock (a "Series A Share") shall be deemed to be its "date of issuance" regardless of the number of times transfer of such share is made on the stock records maintained by or for the Corporation and regardless of the number of certificates which may be issued to evidence such Share. Notwithstanding anything herein to the contrary but subject to Article IV.B.1, Article IV.B.3, Article IV.C.1, and Article IV.C.3, (i) no dividend shall be declared or paid on the Common Stock unless, (1) first, all accrued and unpaid dividends on the Series B Preferred Stock and Series B-1 Preferred Stock shall have been paid in full, and (2) second, all accrued and unpaid dividends on the Series A Preferred Stock shall have been paid in full; and (ii) no dividend shall be declared on the Common Stock unless a dividend is declared with respect to the Series A Preferred Stock, which dividend, in the aggregate, shall be equal to the aggregate amount to be declared on the Common Stock.

(b) **Distribution of Partial Dividend Payments.** Except as otherwise provided herein, if at any time the Corporation pays less than the total amount of dividends then accrued with respect to the Series A Preferred Stock, such payment shall be distributed pro rata among the holders thereof based upon the number of Series A Shares held by each such holder.

## **2. Liquidation.**

Upon any Liquidation Event, each holder of Series A Preferred Stock shall be entitled to be paid, before any distribution or payment is made upon any Junior Securities (other than the Series B Preferred Stock and Series B-1 Preferred Stock, which shall be *pari passu* with the holders of the Series A Preferred Stock for this purpose), an amount in cash equal to the aggregate Series A Liquidation Value of all Series A Shares held by such holder (plus all accrued and unpaid dividends on such Series A Preferred Stock), and the holders of Series A Preferred Stock shall not be entitled to any further payment. If upon any such Liquidation Event the Corporation's assets to be distributed among the holders of the Series A Preferred Stock, the Series B Preferred Stock, and the Series B-1 Preferred Stock are insufficient to permit payment to such holders of the aggregate amount that they are entitled to be paid under this Article IV.C.2, (in the case of the holders of Series B-1 Preferred Stock), Article IV.B.2 (in the case of the holders of Series B Preferred Stock), and Article IV.D.2 (in the case of the holders of Series A Preferred Stock), then all assets available to be distributed to the Corporation's shareholders shall be distributed pro rata among the holders of the Series B Shares, the holders of the Series B-1 Shares, and the holders of the Series A Shares based upon the aggregate Series B Liquidation Value (plus all accrued and unpaid dividends on the Series B Shares), Series B-1 Liquidation Value (plus all accrued and unpaid dividends on the Series B-1 Shares), or Series A Liquidation Value (plus all accrued and unpaid dividends on the Series A Shares), as applicable, of the Series B Preferred Stock, the Series B-1 Preferred Stock, and Series A Preferred Stock held by each such holder. Prior to any Liquidation Event, the Corporation shall declare for payment all accrued and unpaid dividends with respect to the Series A Preferred Stock, except to the extent the funds of the Corporation legally available for the payment of dividends are insufficient. Not less than sixty (60) days prior to the payment date stated therein, the Corporation shall mail written notice of any such Liquidation Event to each record holder of Series A Preferred Stock, setting forth in reasonable detail the amount of proceeds to be paid with respect to each Series B Share, Series B-1 Share, Series A Share and each share of Common Stock in connection with such Liquidation Event.

**3. Priority of Series A Preferred on Dividends and Redemptions.**

Subject to the rights of the Series B Preferred Stock, including, without limitation, the rights set forth in Article IV.B.3 and Article IV.C.3, so long as any Series A Preferred Stock remains outstanding, without the prior written consent of the holders of a majority of the outstanding shares of Series A Preferred Stock, the Corporation shall not, nor shall it permit any Subsidiary to, redeem, purchase or otherwise acquire, directly or indirectly, any Junior Securities (other than the Series A Preferred), nor shall the Corporation, directly or indirectly, pay or declare any dividend or make any distribution upon any Junior Securities (other than Series A Preferred Stock).

**4. Redemptions.**

(a) **Redemption Payments.** For each Series A Share that is to be redeemed hereunder, subject to the prior redemption of all outstanding Series B Preferred Stock and Series B-1 Preferred Stock, the Corporation shall be obligated on the Redemption Date to pay to the holder thereof (upon surrender by such holder at the Corporation's principal office of the certificate representing such Series A Share) an amount in cash equal to the Series A Liquidation Value of such Series A Share (plus all accrued and unpaid dividends thereon). If the funds of the Corporation legally available for redemption of securities on any Redemption Date are insufficient to redeem the total number of securities to be redeemed on such date, then, except as otherwise provided herein, those funds which are legally available (following the redemption of any Series B Shares and Series B-1 Shares to be redeemed) shall be used to redeem the maximum possible number of Series A Shares, in accordance with the following subsection (b). At any time thereafter when additional funds of the Corporation are legally available for the redemption of Series A Shares (and are not required to be used to redeem Series B Shares and the Series B-1 Shares), such funds shall immediately be used to redeem the balance of the Series A Shares which the Corporation has become obligated to redeem on any Redemption Date but has not redeemed. Prior to any redemption of Series A Preferred Stock, the Corporation shall declare for payment (1) first, all accrued and unpaid dividends with respect to the Series B Shares and Series B-1 Shares, but only to the extent funds of the Corporation legally available for the payment of dividends, and (2) second, all accrued and unpaid dividends with respect to the Series A Shares, but only to the extent funds of the Corporation are legally available for the payment of dividends (following compliance with requirements of the immediately preceding sub-clause (1)).

(b) **Determination of the Number of Each Holder's Series A Shares to be Redeemed.** Except as otherwise provided herein, the number of Series A Shares to be redeemed from each holder thereof in redemptions hereunder shall be the number of Series A Shares determined by multiplying the total number of Series A Shares to be redeemed times a fraction, the numerator of which shall be the total number of Series A Shares then held by such holder and the denominator of which shall be the total number of Series A Shares then outstanding.

(c) **Dividends After Redemption Date.** No Series A Share shall be entitled to any dividends accruing after the date on which the Series A Liquidation Value of such Series A Share (plus all accrued and unpaid dividends thereon) is fully paid to the holder of such Series



A Share. On such date, all rights of the holder of such Series A Share with respect thereto shall cease, and such Series A Share shall no longer be deemed to be issued and outstanding.

(d) **Redeemed or Otherwise Acquired Shares.** Any Series A Shares that are redeemed or otherwise acquired by the Corporation shall be canceled and retired to authorized but unissued shares and shall not be reissued, sold or transferred.

(e) **Payment of Accrued Dividends.** In addition to prior compliance with all of the applicable senior rights of the Series B Preferred Stock and the Series B-1 Preferred Stock, the Corporation may not redeem any Series A Preferred Stock, unless all dividends accrued on the outstanding Series A Preferred Stock through the date of such redemption have been declared and paid in full.

(f) **Special Redemptions.**

(i) If a Change in Ownership may occur or the Corporation obtains knowledge that a Change in Ownership is proposed to occur, the Corporation shall give prompt written notice of such Change in Ownership describing in reasonable detail the material terms and date of consummation thereof to each holder of Series A Preferred Stock, but in any event such notice shall not be given later than ten (10) days prior to the occurrence of such Change in Ownership, and the Corporation shall give each holder of Series A Preferred Stock prompt written notice of any material change in the terms or timing of such transaction. The holder or holders of a majority of the Series A Preferred Stock then outstanding may require the Corporation to redeem all or any portion of the Series A Preferred Stock owned by such holder or holders at a price per Series A Share equal to the Series A Liquidation Value thereof immediately prior to the Change in Ownership (plus all accrued and unpaid dividends thereon) by giving written notice to the Corporation of such election prior to the Expiration Date; provided, that any such redemption shall be subject to the rights of the Series B Preferred Stock. The Corporation shall give prompt written notice of any such election to all other holders of Series A Preferred Stock within five (5) days after the receipt thereof, and each such holder shall have until the later of: (a) the Expiration Date, or (b) ten (10) days after receipt of such second notice to request redemption hereunder (by giving written notice to the Corporation) of all or any portion of the Series A Preferred Stock owned by such holder.

(1) Upon receipt of such election(s), subject to the rights of the Series B Preferred Stock and the Series B-1 Preferred Stock, the Corporation shall be obligated to redeem the aggregate number of Series A Shares specified therein on the later of: (a) the occurrence of the Change in Ownership; or (b) five (5) days after the Corporation's receipt of such election(s). If any proposed Change in Ownership does not occur, all requests for redemption in connection therewith shall be automatically rescinded, or if there has been a material change in the terms or the timing of the transaction, any holder of Series A Preferred Stock may rescind such holder's request for redemption by giving written notice of such rescission to the Corporation.

(ii) If a Fundamental Change is proposed to occur, the Corporation shall give written notice of such Fundamental Change describing in reasonable detail the material terms and date of consummation thereof to each holder of Series A Preferred Stock not

more than forty-five (45) days nor less than twenty (20) days prior to the consummation of such Fundamental Change, and the Corporation shall give each holder of Series A Preferred Stock prompt written notice of any material change in the terms or timing of such transaction. The holder or holders of a majority of the Series A Preferred Stock then outstanding may require the Corporation to redeem all or any portion of the Series A Preferred Stock owned by such holder or holders at a price per Series A Share equal to the Series A Liquidation Value thereof immediately prior to the Fundamental Change (plus all accrued and unpaid dividends thereon) by giving written notice to the Corporation of such election prior to the later of: (a) ten (10) days prior to the consummation of the Fundamental Change; or (b) ten (10) days after receipt of notice from the Corporation; provided, that any such redemption shall be subject to the rights of the Series B Preferred Stock and Series B-1 Preferred Stock. The Corporation shall give prompt written notice of such election to all other holders of Series A Preferred Stock (but in any event within five (5) days prior to the consummation of the Fundamental Change), and each such holder shall have until two (2) days after the receipt of such notice to request redemption (by written notice given to the Corporation) of all or any portion of the Series A Preferred Stock owned by such holder.

(1) Upon receipt of such election(s), subject to the rights of the Series B Preferred Stock and the Series B-1 Preferred Stock, the Corporation shall be obligated to redeem the aggregate number of Series A Shares specified therein upon the consummation of such Fundamental Change. If any proposed Fundamental Change does not occur, all requests for redemption in connection therewith shall be automatically rescinded, or if there has been a material change in the terms or the timing of the transaction, any holder of Series A Preferred Stock may rescind such holder's request for redemption by delivering written notice thereof to the Corporation prior to the consummation of the transaction.

(g) **Redemptions upon Request.** At any time (i) after January 31, 2011 and (ii) there are no Series B Shares or Series B-1 Shares outstanding, the holders of a majority of the outstanding Series A Preferred Stock may request redemption of all of the Series A Shares owned by such holder or holders by delivering written notice of such request to the Corporation. Within five (5) days after receipt of such request, the Corporation shall give written notice of such request to all other holders of Series A Preferred Stock, and such other holders may request redemption of their Series A Shares by delivering written notice to the Corporation within ten (10) days after receipt of the Corporation's notice. The Corporation shall be required to redeem all Series A Shares with respect to which such redemption requests have been properly made at a price per Series A Share equal to the Original Series A Purchase Price (plus any accrued and unpaid dividends thereon) within twenty (20) days after receipt of the initial redemption request.

## **5. Voting Rights.**

(a) **Election of Directors.** In the election of directors of the Corporation, in addition to the voting rights set forth in Article IV.A.3., the holders of the Series A Preferred Stock, voting separately as a single class to the exclusion of all other classes of the Corporation's capital stock and with each Series A Share entitled to one vote, shall be entitled to elect one (1) director (the "Series A Director") to serve on the Board until such director's successor is duly elected by the holders of the Series A Preferred or such director is removed from office by the holders of the Series A Preferred. At such time as no Series A Shares are outstanding, any

director in office elected solely by the holders of the Series A Preferred Stock voting separately as a class shall remain as a member of the Board, until such time as his or her successor shall be duly elected by the shareholders of the Corporation then entitled to vote for directors acting together as a single class. If the holders of the Series A Preferred Stock for any reason fail to elect anyone to fill any such directorship (so long as they retain the right to fill such directorship), such position shall remain vacant until such time as the holders of the Series A Preferred Stock elect a director to fill such position and such vacancy shall not be filled by resolution or vote of the Board or the Corporation's other shareholders. In order to protect the representation on the Board granted to the holders of the Series A Preferred Stock, any expansion of the number of directors constituting the Board beyond nine (9) members, shall require, in addition to any other voting requirement set forth in the Articles of Incorporation, the vote of the holders of a majority of the Series A Preferred Stock issued and outstanding, voting separately as a single class to the exclusion of all other classes of the Corporation's capital stock and with each Series A Share entitled to one vote.

(b) **Other Voting Rights.** The holders of the Series A Preferred Stock shall be entitled to notice of all shareholders meetings in accordance with the Corporation's bylaws, and except in the election of directors and as otherwise required by applicable law, the holders of the Series A Preferred Stock shall be entitled to vote on all matters submitted to the shareholders for a vote together with the holders of the Series B Preferred Stock and the Series B-1 Preferred Stock and the holders of all Junior Securities voting together as a single class with each share of Common Stock entitled to one vote per share and each Share of Preferred Stock entitled to one vote for each share of Common Stock issuable upon conversion of the such share of Preferred Stock as of the record date for such vote or, if no record date is specified, as of the date of such vote.

## **6. Conversion.**

### **(a) Conversion Procedure.**

(i) At any time and from time to time, any holder of Series A Preferred Stock may convert all or any portion of the Series A Preferred Stock (including any fraction of a Series A Share) held by such holder into a number of shares of Series A Conversion Stock computed by multiplying the number of Series A Shares to be converted by the Original Series A Purchase Price and dividing the result by the Series A Conversion Price then in effect.

(ii) Except as otherwise provided herein, each conversion of Series A Preferred Stock shall be deemed to have been effected as of the close of business on the date on which the certificate or certificates representing the Series A Preferred Stock to be converted have been surrendered for conversion at the principal office of the Corporation. At the time any such conversion has been effected, the rights of the holder of the Series A Shares converted, with respect to such converted Series A Shares, shall cease and the Person or Persons in whose name or names any certificate or certificates for shares of Series A Conversion Stock are to be issued upon such conversion shall be deemed to have become the holder or holders of record of the shares of Series A Conversion Stock represented thereby.

(iii) The conversion rights of any Series A Share subject to redemption hereunder shall terminate on the Redemption Date for such Series A Share unless the Corporation has failed to pay to the holder thereof the Series A Liquidation Value (plus all accrued and unpaid dividends thereon and any premium payable with respect thereto).

(iv) Notwithstanding any other provision hereof, if a conversion of Series A Preferred Stock is to be made in connection with a Public Offering, a Change in Ownership, a Fundamental Change, a Liquidation Event, or other transaction affecting the Corporation, the conversion of any Series A Shares may, at the election of the holder thereof, be conditioned upon the consummation of such transaction, in which case such conversion shall not be deemed to be effective until such transaction has been consummated.

(v) As soon as possible after a conversion has been effected (but in any event within five (5) business days in the case of Article IV.D.6.(a)(v)(1) below), the Corporation shall deliver to the converting holder:

(1) a certificate or certificates representing the number of shares of Series A Conversion Stock issuable by reason of such conversion in such name or names and such denomination or denominations as the converting holder has specified;

(2) payment in an amount equal to all accrued dividends with respect to each Series A Share converted that have not been paid prior thereto, plus the amount payable under Article IV.D.6.(a)(x) below with respect to such conversion; and

(3) a certificate representing any Series A Shares that were represented by the certificate or certificates delivered to the Corporation in connection with such conversion but were not converted.

(vi) If for any reason the Corporation is unable to pay any portion of the accrued and unpaid dividends on Series A Preferred Stock being converted, such dividends may, at the converting holder's option and to the extent that there are authorized but unissued and unreserved shares of Series A Preferred Stock available for issuance by the Corporation, be converted into an additional number of shares of Series A Conversion Stock determined by dividing the amount of the unpaid dividends to be applied for such purpose, by the Series A Conversion Price then in effect.

(vii) The issuance of certificates for shares of Series A Conversion Stock upon conversion of Series A Preferred Stock shall be made without charge to the holders of such Series A Preferred Stock for any issuance tax in respect thereof or other cost incurred by the Corporation in connection with such conversion and the related issuance of shares of Series A Conversion Stock. Upon conversion of each Series A Share, the Corporation shall take all such actions as are necessary in order to insure that the Series A Conversion Stock issuable with respect to such conversion shall be validly issued, fully paid and nonassessable, free and clear of all taxes, liens, charges and encumbrances with respect to the issuance thereof.

(viii) The Corporation shall not close its books against the transfer of Series A Preferred Stock or of Series A Conversion Stock in any manner that interferes with the timely conversion of Series A Preferred Stock. The Corporation shall assist and cooperate with

any holder of Series A Shares required to make any governmental filings or obtain any governmental approval prior to or in connection with any conversion of Series A Shares hereunder (including, without limitation, making any filings required to be made by the Corporation).

(ix) The Corporation shall at all times reserve and keep available out of its authorized but unissued capital stock, solely for the purpose of issuance upon the conversion of the Series A Preferred Stock, such number of shares of Series A Conversion Stock issuable upon the conversion of all outstanding Series A Preferred Stock. All shares of Series A Conversion Stock that are so issuable shall, when issued, be duly and validly issued, fully paid and nonassessable and free from all taxes, liens and charges. The Corporation shall take all such actions as may be necessary to assure that all such shares of Series A Conversion Stock may be so issued without violation of any applicable law or governmental regulation or any requirements of any domestic securities exchange or market upon which shares of Series A Conversion Stock may be listed (except for official notice of issuance which shall be immediately delivered by the Corporation upon each such issuance). The Corporation shall not take any action that would cause the number of authorized but unissued shares of Series A Conversion Stock to be less than the number of such shares required to be reserved hereunder for issuance upon conversion of the Series A Preferred Stock.

(x) If any fractional interest in a share of Series A Conversion Stock would, except for the provisions of this Article IV.D.6.(a)(x), be delivered upon any conversion of the Series A Preferred Stock, the Corporation, in lieu of delivering the fractional share therefor, shall pay an amount to the holder thereof equal to the Market Price of such fractional interest as of the date of conversion.

(xi) If the shares of Series A Conversion Stock issuable by reason of conversion of Series A Preferred Stock are convertible into or exchangeable for any other stock or securities of the Corporation, the Corporation shall, at the converting holder's option, upon surrender of the Series A Shares to be converted by such holder as provided herein together with any notice, statement or payment required to effect such conversion or exchange of Series A Conversion Stock, deliver to such holder or as otherwise specified by such holder a certificate or certificates representing the stock or securities into which the shares of Series A Conversion Stock issuable by reason of such conversion are convertible or exchangeable, registered in such name or names and in such denomination or denominations as such holder has specified.

(b) **Series A Conversion Price.**

(i) The initial Series A Conversion Price will be five dollars (\$5.00) (the "Initial Series A Conversion Price"). In order to prevent dilution of the conversion rights granted under this Article IV.D.6., the Conversion Price shall be subject to adjustment from time to time pursuant to this Article IV.D.6. The Initial Series A Conversion Price, as adjusted pursuant to this Article IV.D.6 is referred to as the "Series A Conversion Price."

(ii) If and whenever on or after the original date of issuance of the Series A Preferred Stock the Corporation issues or sell, or in accordance with Article IV.D.6.(c) is deemed to have issued or sold, any shares of Common Stock for a consideration per share less

than the Series A Conversion Price in effect immediately prior to such time, then immediately upon such issue or sale or deemed issue or sale the Series A Conversion Price shall be reduced to the lowest net price per share at which any such share of Common Stock has been issued or sold or is deemed to have been issued or sold. Notwithstanding anything to the contrary contained in Article IV.D.6(c), the Initial Series A Conversion Price shall never be increased.

(c) **Effect on Series A Conversion Price of Certain Events.** For purposes of determining the adjusted Series A Conversion Price under Article IV.D.6(b), the following shall be applicable:

(i) **Issuance of Rights or Options.** If the Corporation in any manner grants or sells any Option and the lowest price per share for which any one share of Common Stock is issuable upon the exercise of any such Option, or upon conversion or exchange of any Convertible Security issuable upon exercise of any such Option, is less than the Series A Conversion Price in effect immediately prior to the time of the granting or sale of such Option, then such share of Common Stock shall be deemed to be outstanding and to have been issued and sold by the Corporation at the time of the granting or sale of such Option for such price per share. For purposes of this paragraph, the *"lowest price per share for which any one share of Common Stock is issuable"* shall be equal to the sum of the lowest amounts of consideration (if any) received or receivable by the Corporation with respect to any one share of Common Stock upon the granting or sale of the Option, upon exercise of the Option and upon conversion or exchange of any Convertible Security issuable upon exercise of such Option. No further adjustment of the Series A Conversion Price shall be made upon the actual issue of such Common Stock or such Convertible Security upon the exercise of such Options or upon the actual issue of such Common Stock upon conversion or exchange of such Convertible Security and on the termination of any such Option or any such right to convert or exchange such Convertible Security, the Series A Conversion Price then in effect hereunder shall immediately be increased to the Series A Conversion Price which would have been in effect at the time of such termination had such Option or Convertible Security, to the extent outstanding immediately prior to such termination, never been issued.

(ii) **Issuance of Convertible Securities.** If the Corporation in any manner issues or sells any Convertible Security and the lowest price per share for which any one share of Common Stock is issuable upon conversion or exchange thereof is less than the Series A Conversion Price in effect immediately prior to the time of such issue or sale, then such share of Common Stock shall be deemed to be outstanding and to have been issued and sold by the Corporation at the time of the issuance or sale of such Convertible Securities for such price per share. For the purposes of this paragraph, the *"lowest price per share for which any one share of Common Stock is issuable"* shall be equal to the sum of the lowest amounts of consideration (if any) received or receivable by the Corporation with respect to any one share of Common Stock upon the issuance or sale of the Convertible Security and upon the conversion or exchange of such Convertible Security. No further adjustment of the Series A Conversion Price shall be made upon the actual issue of such Common Stock upon conversion or exchange of any Convertible Security, and if any such issue or sale of such Convertible Security is made upon exercise of any Options for which adjustments of the Series A Conversion Price had been or are to be made pursuant to other provisions of this Article IV.D.6, no further adjustment of the Series A Conversion Price shall be made by reason of such issue or sale, and on the termination

of any such right to convert or exchange such Convertible Security, the Series A Conversion Price then in effect hereunder shall immediately be increased to the Series A Conversion Price which would have been in effect at the time of such termination had such Convertible Security, to the extent outstanding immediately prior to such termination, never been issued.

(iii) Change in Option Price or Conversion Rate. If the purchase price provided for in any Option, the additional consideration (if any) payable upon the issue, conversion or exchange of any Convertible Security or the rate which any Convertible Security is convertible into or exchangeable for Common Stock changes at any time, the Series A Conversion Price in effect at the time of such change shall be adjusted immediately to the Series A Conversion Price which would have been in effect at such time had such Option or Convertible Security originally provided for such changed purchase price, additional consideration or conversion rate, as the case may be, at the time initially granted, issued or sold; provided, that no such adjustment of the Series A Conversion Price shall result in an increase in the Series A Conversion Price. For purposes of Article IV.D.6.(c), if the terms of any Option or Convertible Security that was outstanding as of the date of issuance of the Series A Preferred Stock are changed in the manner described in the immediately preceding sentence, then such Option or Convertible Security and the Common Stock deemed issuable upon exercise, conversion or exchange thereof shall be deemed to have been issued as of the date of such change; provided, that no such change shall at any time cause the Series A Conversion Price hereunder to be increased.

(iv) Exception to Adjustment. Notwithstanding anything to the contrary in Article IV.D.6.(b) or (c), none of the adjustments contemplated thereby shall be applicable with respect to (I) Excluded Options, (II) the issuance of Common Stock upon the conversion of Series B Preferred Stock and the Series B-1 Preferred Stock, (III) the issuance of Common Stock upon the exercise or conversion of securities of the Corporation outstanding on October 4, 2004, including without limitation warrants of the Corporation issued on such date, or (IV) upon conversion of outstanding shares of UCT GmbH into shares of Common Stock.

(v) Calculation of Consideration Received. If any Common Stock, Option or Convertible Security is issued or sold or deemed to have been issued or sold for cash, the consideration received therefor shall be deemed to be the amount received by the Corporation therefor (net of discounts, commissions and related expenses). If any Common Stock, Option or Convertible Security is issued or sold for a consideration other than cash, the amount of the consideration other than cash received by the Corporation shall be: (1) if other than securities, the Fair Value of such consideration, and (2) if securities, the Market Price thereof as of the date of receipt; provided, that if any Common Stock, Option or Convertible Security is issued to the owners of the non-surviving entity in connection with any merger in which the Corporation is the surviving corporation, the amount of consideration therefor shall be deemed to be the Fair Value of such portion of the net assets and business of the non-surviving entity as is attributable to such Common Stock, Option or Convertible Security, as the case may be.

(vi) Treasury Shares. The number of shares of Common Stock outstanding at any given time shall not include shares owned or held by or for the account of the Corporation or any Subsidiary, and the disposition of any shares so owned or held shall be considered an issue or sale of Common Stock.

(vii) **Record Date.** If the Corporation takes a record of the holders of Common Stock for the purpose of entitling them: (a) to receive a dividend or other distribution payable in Common Stock, Options or in Convertible Securities; or (b) to subscribe for or purchase Common Stock, Options or Convertible Securities, then such record date shall be deemed to be the date of the issue or sale of the shares of Common Stock deemed to have been issued or sold upon the declaration of such dividend or upon the making of such other distribution or the date of the granting of such right of subscription or purchase, as the case may be.

(d) **Subdivision or Combination of Common Stock.** If the Corporation at any time subdivides (by any stock split, stock dividend, recapitalization or otherwise) one or more classes of its outstanding shares of Common Stock into a greater number of shares, the Series A Conversion Price in effect immediately prior to such subdivision shall be proportionately reduced, and if the Corporation at any time combines (by reverse stock split or otherwise) one or more classes of its outstanding shares of Common Stock into a smaller number of shares, the Series A Conversion Price in effect immediately prior such combination shall be proportionately increased.

(e) **Reorganization, Reclassification, Consolidation, Merger or Sale.** Prior to the consummation of any Organic Change, the Corporation shall make appropriate provisions (in form and substance reasonably satisfactory to the holders of a majority of the Series A Preferred then outstanding) to insure that each of the holders of Series A Preferred Stock shall thereafter have the right to acquire and receive, in lieu of or in addition to (as the case may be) the shares of Series A Conversion Stock immediately theretofore acquirable and receivable upon the conversion of such holder's Series A Preferred Stock, such shares of stock, securities or assets as such holder would have received in connection with such Organic Change if such holder had already converted. In each such case, the Corporation shall also make appropriate provisions (in form and substance reasonably satisfactory to the holders of a majority of the Series A Preferred then outstanding) to insure that the provisions of this Article IV.D.6 and Article IV.D.8 hereof and the other relevant provisions hereof shall thereafter be applicable to the Series A Preferred Stock (including, in the case of any such consolidation, merger or sale in which the successor entity or purchasing entity is other than the Corporation, an immediate adjustment of the Series A Conversion Price to the value for the Common Stock reflected by the terms of such consolidation, merger or sale, and a corresponding immediate adjustment in the number of shares of Series A Conversion Stock acquirable and receivable upon conversion of Series A Preferred Stock, if the value so reflected is less than the Series A Conversion Price in effect immediately prior to such consolidation, merger or sale). The Corporation shall not effect any such consolidation, merger or sale, unless prior to the consummation thereof, the successor entity (if other than the Corporation) resulting from consolidation or merger or the entity purchasing such assets assumes by written instrument (in form and substance satisfactory to the holders of a majority of the Series A Preferred Stock then outstanding), the obligation to deliver to each such holder such shares of stock, securities or assets as, in accordance with the foregoing provisions, such holder may be entitled to acquire.

(f) **Certain Events.** If any event occurs of the type contemplated by the provisions of this Article IV.D.6 but not expressly provided for by such provisions (including, without limitation, the granting of stock appreciation rights, phantom stock rights or other rights



with equity features), then the Board shall make an appropriate adjustment in the Series A Conversion Price so as to protect the rights of the holders of Series A Preferred Stock; provided, that no such adjustment shall increase the Series A Conversion Price as otherwise determined pursuant to this Article IV.D.6. or decrease the number of shares of Series A Conversion Stock issuable upon conversion of each Series A Share.

(g) **Notices.**

(i) Immediately upon any adjustment of the Series A Conversion Price, the Corporation shall give written notice thereof to all holders of Series A Preferred Stock, setting forth in reasonable detail and certifying the calculation of such adjustment.

(ii) The Corporation shall give written notice to all holders of Series A Preferred Stock at least twenty (20) days prior to the date on which the Corporation closes its books or takes a record: (1) with respect to any dividend or distribution upon Common Stock; (2) with respect to any pro rata subscription offer to holders of Common Stock; or (3) for determining rights to vote with respect to any Organic Change or Liquidation Event.

(iii) The Corporation shall also give written notice to the holders of Series A Preferred Stock at least twenty (20) days prior to the date on which any Organic Change shall take place.

(h) **Automatic Conversion.** Upon the closing of an underwritten Qualified Public Offering each of the outstanding Series A Shares automatically shall be converted into Conversion Shares.

7. **[Reserved.]**

8. **Preemptive Rights.**

(a) If the Corporation at any time prior to its initial Public Offering authorizes the issuance or sale of any securities, then the Corporation shall first offer to sell to each holder of Series A Preferred Stock that amount of the securities being offered equal to all of the securities being offered multiplied by a fraction, the numerator of which is equal to the number of shares of Common Stock that would be held by such holder if the Series A Preferred Stock held by such holder was converted immediately before such issuance, and the denominator of which is equal to the total number of shares of Common Stock outstanding immediately before such issuance (assuming all shares of Preferred Stock, and all other securities convertible or exchangeable by the holders of the Series A Preferred Stock, were converted or exchanged). Notwithstanding anything herein to the contrary, the purchase rights granted in this Section shall not apply: (a) to issuances of Excluded Options or the shares issued upon exercise thereof; (b) in connection with acquisitions approved by the Board and the holders of a majority of the outstanding Series B Preferred Stock and Series B-1 Preferred Stock voting together as a single class; (c) pursuant to a Public Offering; (d) in connection with issuances where the holders of a majority of the outstanding Series A Preferred Stock waive such right in writing; or (e) in connection with the issuance of Common Stock as a dividend on outstanding shares of Common Stock.

(b) The holders of Series A Preferred Stock shall be entitled to purchase all or any portion of such capital stock at the most favorable price and on the most favorable terms as such capital stock is to be offered to any other Persons. At least forty-five (45) days prior to the contemplated transaction, the Corporation shall cause to be delivered to each holder of Series A Preferred Stock written notice from the Corporation (the "Series A Notice") describing in reasonable detail the securities being offered, the purchase price thereof, the payment terms, and such holder's allotment. In order to exercise its purchase rights hereunder, a holder of Series A Preferred Stock must, within twenty (20) days after receipt of the Series A Notice, deliver a written notice to the Corporation describing its election hereunder. Upon the expiration of the twenty (20) day acceptance period described above (and any additional period that may apply under Article IV.B.8 or Article IV.C.8), the Corporation shall be entitled to sell such securities that the holders of Series A Preferred Stock and holders of Series B Preferred Stock (pursuant to the preemptive rights granted under Article IV.B.8 or Article IV.C.8 hereof) have not elected to purchase during the ninety (90) days following the last to expire offering period on terms and conditions no different or more favorable to the purchasers thereof than those offered to such holder. Any securities offered or sold by the Corporation after such ninety (90) day period must be reoffered to the holders of Series A Preferred Stock pursuant to the terms of this paragraph.

#### **9. Amendment and Waiver.**

No amendment, modification or waiver shall be binding or effective with respect to any provision of the Articles of Incorporation without the prior written consent of the holders of a majority of the Class A Preferred Stock outstanding at the time such action is taken; provided, that no such action shall change (a) the rate at which or the manner in which dividends on the Class A Preferred Stock accrue or the times at which such dividends become payable or the amount payable on redemption of the Class A Preferred Stock or the times at which redemption of the Class A Preferred Stock is to occur, without the prior written consent of the holders of at least sixty-six and sixty-seven one-hundredths percent (66.67%) of the Series A Preferred Stock then outstanding, (b) the Series A Conversion Price or the number of shares or class of stock into which the Class A Preferred Stock is convertible, without the prior written consent of the holders of at least sixty-six and sixty-seven one-hundredths percent (66.67%) of the Series A Preferred Stock then outstanding, or (c) the percentage required to approve any change described in clauses (a) and (b) above, without the prior written consent of the holders of at least sixty-six and sixty-seven one-hundredths percent (66.67%) of the Series A Preferred Stock then outstanding; provided, further, that no change in the terms hereof may be accomplished by merger or consolidation of the Corporation with another corporation or entity unless the Corporation has obtained the prior written consent of the holders of the applicable percentage of the Series A Preferred Stock then outstanding.

#### **E. Restrictions.**

1. **Restrictions.** Without the prior written consent of the holders of a majority of the outstanding Series A Preferred Stock, Series B Preferred Stock, and Series B-1 Preferred Stock, voting together as a single class, the Corporation shall not and shall not commit to (and shall not permit any Subsidiary to and shall not permit any Subsidiary to commit to):

(a) directly or indirectly declare or pay any dividends or make any distributions upon any of its equity securities, other than payments of dividends on, or redemption payments pursuant to the Articles of Incorporation;

(b) except as required by the Articles of Incorporation, directly or indirectly redeem, purchase, or otherwise acquire, any of the Corporation's or any Subsidiary's equity securities (including, without limitation, warrants, options, and other rights to acquire equity securities);

(c) authorize, reclassify, issue, sell, or enter into any agreement providing for the issuance of (contingent or otherwise), any equity securities or debt securities with equity features (or phantom equity features or stock appreciation rights) or securities exercisable or convertible into equity securities or debt securities with equity features (or phantom equity features or stock appreciation rights), unless the same are junior in all respects to the Series B Preferred Stock, Series B-1 Preferred Stock, and Series A Preferred Stock;

(d) increase the aggregate authorized number of shares of Series B Preferred Stock, Series B-1 Preferred Stock, Series A Preferred Stock or any other series of Preferred Stock or Common Stock or alter or change materially or adversely, the rights and preferences of the Series B Preferred Stock, Series B-1 Preferred Stock, or Series A Preferred Stock.

(e) merge or consolidate with any Person, or suffer any Sale of the Corporation or effectuate any recapitalization or reorganization or similar transaction (including, but not limited to, the implementation of a holding company structure);

(f) sell, lease, or otherwise dispose of any patent, trademark, copyright or material intellectual property right (other than marketing rights and exclusive rights given on certain applications) or more than ten percent (10%) of the consolidated assets of the Corporation and its Subsidiaries (computed based on fair market value, determined by the Board in its reasonable good faith judgment) in any transaction or series of related transactions (other than sales of inventory in the ordinary course of business);

(g) liquidate, dissolve, or effect a recapitalization, reorganization or similar transaction in any form of transaction (including, without limitation, any reorganization into limited liability company or partnership form);

(h) change the nature of the Corporation or any Subsidiary's business or enter into the ownership, active management, or operation of (or invest in) any business that is materially different from the businesses in which the Corporation or any Subsidiary, respectively, was engaged on the date of the Series B Purchase Agreement;

(i) enter into, amend, modify, or supplement any agreement, transaction, commitment, or arrangement with any of the officers, directors, or senior executive employees or shareholders of the Corporation or any affiliate or Subsidiary thereof; provided, that the foregoing shall be inapplicable to compensation arrangements approved by a duly appointed Compensation Committee of the Board;

(j) make any amendment to the Articles of Incorporation or the bylaws of the Corporation;

(k) enter into any agreement that would (under any circumstances) restrict the Corporation's right or ability (1) to perform the provisions of the Series A Purchase Agreement or any of the other agreements or instruments contemplated thereby; (2) to perform the provisions of the Series B Purchase Agreement or any of the other agreements or instruments contemplated thereby, (3) to perform the provisions of the Series B-1 Purchase Agreement or any of the other agreements or instruments contemplated thereby, or (4) to conduct its business or the business of any Subsidiary, in each case, as currently conducted or as proposed to be conducted at any time;

(l) expand the Board beyond nine (9) members;

(m) make any acquisition of assets or stock or other securities of any entity, or any other investment in any other entity within the eighteen (18) months after the closing of the transactions contemplated by the Series B Purchase Agreement if after such acquisition the Corporation would have less than one million dollars (\$1,000,000) in cash (assuming the repayment of all indebtedness for borrowed money);

(n) enter into any acquisition or other material transaction with McComas Technologies, AG;

(o) adopt any stock option plans or increase the number of shares available for grant under any option plan (except to the extent such increase in the number of shares is included within the Excluded Options); or

(p) grant future registration rights senior or *pari passu* to those of the holders of the Preferred Stock.

## **2. Further Covenants.**

(a) Without the affirmative vote of a majority of the Board, the Corporation shall not, and shall not commit to, make capital expenditures in any fiscal year in excess of one million dollars (\$1,000,000), or make any expenditure that has not been approved by an annual budget approved by the Board, in each case excluding capital expenditures for research and development and other purposes on behalf of business affiliates or customers specifically approved by the Board; or

(b) Without the affirmative vote of a majority of the Board (which majority must include the Series B Director), the Corporation shall not and shall not commit to incur debt or guaranties in excess of one million dollars (\$1,000,000), unless such indebtedness or guaranties have been included within an annual budget approved by the holders of a majority of the outstanding Series B Shares and Series B-1 Shares voting together as a single class.

## **3. Registration of Transfer.**

The Corporation shall keep at its principal office a register for the registration of Preferred Stock. Upon the surrender of any certificate representing Preferred Stock at such place, the Corporation shall, at the request of the record holder of such certificate, execute and deliver (at the Corporation's expense) a new certificate or certificates in exchange therefor representing in the aggregate the number of Series B Shares, Series B-1 Shares, or Series A Shares (as applicable) represented by the surrendered certificate. Each such new certificate shall be registered in such name and shall represent such number of Series B Shares, Series B-1 Shares, or Series A Shares (as applicable) as is requested by the holder of the surrendered certificate and shall be substantially identical in form to the surrendered certificate, and dividends shall accrue on the Series B Preferred Stock, Series B-1 Preferred Stock, or Series A Preferred Stock (as the case may be) represented by such new certificate from the date to which dividends previously had been fully paid on such Series B Preferred Stock, Series B-1 Preferred Stock, or Series A Preferred Stock (as applicable) represented by the surrendered certificate.

#### **4. Replacement.**

Upon receipt of evidence reasonably satisfactory to the Corporation (an affidavit of the registered holder shall be satisfactory) of the ownership and the loss, theft, destruction or mutilation of any certificate evidencing Preferred Stock, and in the case of any such loss, theft or destruction, upon receipt of indemnity reasonably satisfactory to the Corporation (provided, that if the holder is a financial institution or other institutional investor its own agreement shall be satisfactory), or, in the case of any such mutilation or surrender of such certificate, the Corporation shall (at its expense) execute and deliver in lieu of such certificate a new certificate of like kind representing the number of Series B Shares, Series B-1 Shares, or Series A Shares (as the case may be) represented by such lost, stolen, destroyed or mutilated certificate and dated the date of such lost, stolen, destroyed or mutilated certificate, and dividends shall accrue on the Series B Preferred Stock, Series B-1 Preferred Stock, or Series A Preferred Stock (as applicable) represented by such new certificate from the date to which dividends previously had been fully paid on such lost, stolen, destroyed or mutilated certificate.

#### **5. Notices.**

Except as otherwise expressly provided hereunder, all notices referred to herein shall be in writing and shall be delivered by registered or certified mail, return receipt requested and postage prepaid, or by reputable overnight courier service, charges prepaid, and shall be deemed to have been given when so mailed or sent (i) to the Corporation, at its principal executive offices and (ii) to any shareholder, at such holder's address as it appears in the stock records of the Corporation (unless otherwise indicated by any such holder).

#### **F. Definitions.**

"Articles of Incorporation" shall mean this Third Amended and Restated Articles of Incorporation, as amended from time to time.

"Board" has the meaning set forth in Article IV.B.1.(a) hereof.

"Change in Ownership" has the meaning set forth in Article IV.B.4.(f)(i)(2) hereof.

"Common Stock" has the meaning set forth in the introductory paragraph of Article IV.

"Convertible Securities" means any stock or securities directly or indirectly convertible into or exchangeable for Common Stock, Series A Conversion Stock, or Series B Conversion Stock.

"Excluded Options" has the meaning set forth in Article IV.B.6.(c)(iv) hereof.

"Expiration Date" has the meaning set forth in Article IV.B.4.(f)(i) hereof.

"Fair Value" with respect to any consideration other than cash and securities, except as otherwise provided herein, shall be determined jointly by the Corporation and the holders of a majority of the outstanding Series B Preferred Stock. If such parties are unable to reach agreement within a reasonable period of time, the Fair Value of such consideration shall be determined by an independent appraiser experienced in valuing such type of consideration jointly selected by the Corporation and the holders of a majority of the outstanding Series B Preferred Stock. The determination of such appraiser shall be final and binding upon the parties and all other holders of Junior Securities, and the fees and expenses of such appraiser shall be borne by the Corporation.

"Fully Exercising Purchasers" has the meaning set forth in Article IV.B.8.(a) hereof.

"Fundamental Change" has the meaning set forth in Article IV.B.4.(f)(ii)(2) hereof.

"Initial Series A Conversion Price" has the meaning set forth in Article IV.D.6.(b)(i) hereof.

"Initial Series B Conversion Price" has the meaning set forth in Article IV.B.6.(b)(i) hereof.

"Initial Series B-1 Conversion Price" has the meaning set forth in Article IV.C.6.(b)(i) hereof.

"Junior Securities" means any capital stock or other equity securities of the Corporation (or securities convertible into capital stock or equity securities of the Corporation), except for the Series B Preferred Stock and the Series B-1 Preferred Stock.

"Liquidation Event" means, unless the holders of a majority of the outstanding Series B Preferred Stock and Series B-1 Preferred Stock voting together as one class on an as-converted basis otherwise determine, (i) any transaction or series of transactions (including, without limitation, any reorganization, merger or consolidation) that will result in the Corporation's shareholders immediately prior to such transaction not holding (by virtue of such shares of securities issued solely with respect thereto) at least fifty percent (50%) of the voting power of the surviving or continuing entity; (ii) a sale of all or substantially all of the assets of

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

"Market Price" of any security means the average of the closing prices of such security's sales on all securities exchanges on which such security may at the time be listed, or, if there has been no sales on any such exchange on any day, the average of the highest bid and lowest asked prices on all such exchanges at the end of such day, or, if on any day such security is not so listed the average of the representative bid and asked prices quoted in the NASDAQ System as of 4:00 P.M., New York time, or, if on any day such security is not quoted in the NASDAQ System, the average of the highest bid and lowest asked prices on such day in the domestic over-the-counter market as reported by the National Quotation Bureau, Incorporated, or any similar successor organization, in each such case averaged over a period of twenty-one (21) days consisting of the trading day immediately prior to the day as of which "Market Price" is being determined and the twenty (20) consecutive trading days prior to such day. If at any time such security is not listed on any securities exchange or quoted in the NASDAQ System or the over-the counter market, the "Market Price" shall be the fair value thereof determined jointly by the Corporation and the holders of a majority of the Series B Preferred Stock and Series B-1 Preferred Stock. If such parties are unable to reach agreement within a reasonable period of time, such fair value shall be determined by an independent appraiser experienced in valuing securities jointly selected by the Corporation and the holders of a majority of the Series B Preferred Stock and Series B-1 Preferred Stock. The determination of such appraiser shall be final and binding upon the parties, and the Corporation shall pay the fees and expenses of such appraiser.

"Options" means any rights, warrants or options to subscribe for or purchase Common Stock or Convertible Securities; provided, that the term "Options" shall not include Excluded Options.

"Organic Change" has the meaning set forth in Article IV.B.6.(e) hereof.

"Original Series A Purchase Price" means five dollars (\$5.00) per Series A Share, as the same may be adjusted to reflect any split, consolidation or similar transaction with respect to the Series A Preferred Stock, or any in-kind dividend on a Series A Share.

"Original Series B Purchase Price" means ten dollars (\$10.00) per Series B Share, as the same may be adjusted to reflect any split, consolidation or similar transaction with respect to the Series B Preferred Stock, or any in-kind dividend on a Series B Share.

"Original Series B-1 Purchase Price" means ten dollars (\$10.00) per Series B-1 Share, as the same may be adjusted to reflect any split, consolidation or similar transaction with respect to the Series B-1 Preferred Stock, or any in-kind dividend on a Series B-1 Share.

"Person" means an individual, a partnership, a corporation, a limited liability company, a limited liability, an association, a joint stock company, a trust, a joint venture, an unincorporated organization and a governmental entity or any department, agency or political subdivision thereof.

“Preferred Stock” has the meaning set forth in the introductory paragraph of Article IV.

“Public Offering” means any offering by the Corporation of its capital stock or equity securities to the public pursuant to an effective registration statement under the Securities Act of 1933, as then in effect, or any comparable statement under the similar federal statute then in force.

“Qualified Public Offering” means a Public Offering of shares of the Corporation’s Common Stock in which: (i) proceeds to the Corporation (net of underwriting commissions and discounts) are at least thirty million dollars (\$30,000,000); and (ii) the price per share paid by the public for such shares is at least two (2) times the Original Series B Purchase Price.

“Registration Agreement” means the Registration Agreement as defined in the Purchase Agreement.

“Redemption Date” as to any share having redemption rights means the date specified in the notice of any redemption at the holder’s option or the applicable date specified herein in the case of any other redemption; provided that no such date shall be a Redemption Date unless the Series B Liquidation Value, the Series B-1 Liquidation Value, or Series A Liquidation Value (as the case may be), plus all accrued and unpaid dividends thereon and any required premium with respect thereto, is actually paid in full on such date, and if not so paid in full, the Redemption Date shall be the date on which such amount is fully paid.

“Sale of the Corporation” means (a) any Change of Ownership; (b) any sale or transfer of more than fifty percent (50%) of the assets of the Corporation and its Subsidiaries on a consolidated basis (measured either by book value in accordance with generally accepted accounting principles consistently applied or by fair market value determined in the reasonable good faith judgment of the Board) in any transaction or series of transactions (other than sales in the ordinary course of business); and/or (c) any merger or consolidation to which the Corporation is a party, except for a merger in which the Corporation is the surviving corporation, the terms of the Preferred Stock are not changed (and no series or class of equity securities becomes *pari passu* with or senior in any way to the Preferred Stock) and the Preferred Stock is not exchanged for cash, securities or other property, and after giving effect to such merger, the holders of the Corporation’s outstanding capital stock possessing a majority of the voting power (under ordinary circumstances) to elect a majority of the Board immediately prior to the merger shall continue to own the Corporation’s outstanding capital stock possessing the voting power (under ordinary circumstances) to elect a majority of the Board.

“Series A Conversion Price” has the meaning set forth in Article IV.D.6.(b)(i) hereof

“Series A Conversion Stock” means shares of the Corporation’s Common Stock, par value \$0.01 per share; provided, that if there is a change such that the securities issuable upon conversion of the Series A Preferred Stock are issued by an entity other than the Corporation or there is a change in the type or class of securities so issuable, then one share of



“Series A Conversion Stock” shall mean one share of the security issuable upon conversion of the Series A Preferred Stock if such security is issuable in shares, or shall mean the smallest unit in which such security is issuable if such security is not issuable in shares.

“Series A Director” has the meaning set forth in Article IV.D.5.(a) hereof.

“Series A Liquidation Value” of any Series A Share as of any particular date shall be equal to: (i) five dollars (\$5.00); plus (ii) the “Series A Preferred Liquidation Preference.” The “Series A Preferred Liquidation Preference” shall be equal to an amount per Series A Share equal to \$0 as of the August 30, 2001, increasing by \$0.30 per quarter in the year beginning September 1, 2001 and ending August 30, 2002, \$0.40 per quarter in the year beginning September 1, 2002 and ending August 30, 2003, \$0.50 per quarter in the year beginning September 1, 2003 and ending August 30, 2004, \$0.60 per quarter beginning September 1, 2004 and ending August 30, 2005, and \$0.70 per quarter beginning September 1, 2005 and continuing thereafter until the aggregate of all quarterly increases equals ten dollars (\$10.00) per share; provided, that the Series A Preferred Liquidation Preference shall terminate upon (a) the occurrence of a Change in Ownership or Fundamental Change in which each holder of Series A Preferred Stock receives cash consideration at closing equal to three (3) times the Series A Conversion Price (*i.e.*, initially fifteen dollars (\$15.00)) or more or (b) the occurrence of a Qualified Public Offering.

“Series A Preferred Stock” has the meaning set forth in the introductory paragraph of Article IV.

“Series A Purchase Agreement” means the Stock Purchase Agreement, dated as of August 30, 2001, by and among the Corporation and one or more investors, as such agreement may from time to time be amended in accordance with its terms.

“Series A Share” has the meaning set forth in Article IV.D.1.(a) hereof.

“Series B Conversion Price” has the meaning set forth in Article IV.B.6.(b)(i) hereof

“Series B Conversion Stock” means shares of the Corporation’s Common Stock, par value \$0.01 per share; provided, that if there is a change such that the securities issuable upon conversion of the Series B Preferred Stock are issued by an entity other than the Corporation or there is a change in the type or class of securities so issuable, then one share of “Series B Conversion Stock” shall mean one share of the security issuable upon conversion of the Series B Preferred Stock if such security is issuable in shares, or shall mean the smallest unit in which such security is issuable if such security is not issuable in shares.

“Series B Director” has the meaning set forth in Article IV.B.5.(a) hereof.

“Series B Liquidation Value” of any Series B Share as of any particular date shall be equal to: (i) ten dollars (\$10.00); plus (ii) the “Series B Preferred Liquidation Preference.” The “Series B Preferred Liquidation Preference” shall be equal to an amount per Series B Share equal to twenty dollars (\$20.00); provided, that the Series B Preferred Liquidation Preference shall terminate upon (a) the occurrence of a Change in Ownership or Fundamental Change in

which each holder of Series B Preferred Stock receives cash consideration at closing equal to three (3) times the Series B Conversion Price (*i.e.*, initially thirty dollars (\$30.00)) or more or (b) the occurrence of a Qualified Public Offering.

“Series B Preferred Stock” has the meaning set forth in the introductory paragraph of Article IV.

“Series B Purchase Agreement” means the Series B Convertible Preferred Stock Purchase Agreement, dated as of October 4, 2004, by and among the Corporation and one or more investors, and any other Series B Convertible Preferred Stock Purchase Agreement(s) subsequently entered into by and among the Corporation and one or more investors pursuant to the terms of such initial agreement, as such agreements may from time to time be amended in accordance with their terms.

“Series B Share” has the meaning set forth in Article IV.B.1.(a) hereof.

“Series B-1 Conversion Price” has the meaning set forth in Article IV.C.6.(b)(i) hereof

“Series B-1 Conversion Stock” means shares of the Corporation’s Common Stock, par value \$0.01 per share; provided, that if there is a change such that the securities issuable upon conversion of the Series B-1 Preferred Stock are issued by an entity other than the Corporation or there is a change in the type or class of securities so issuable, then one share of “Series B-1 Conversion Stock” shall mean one share of the security issuable upon conversion of the Series B-1 Preferred Stock if such security is issuable in shares, or shall mean the smallest unit in which such security is issuable if such security is not issuable in shares.

“Series B-1 Liquidation Value” of any Series B-1 Share as of any particular date shall be equal to: (i) ten dollars (\$10.00); plus (ii) the “Series B-1 Preferred Liquidation Preference.” The “Series B-1 Preferred Liquidation Preference” shall be equal to an amount per Series B-1 Share equal to ten dollars (\$10.00); provided, that the Series B-1 Preferred Liquidation Preference shall terminate upon (a) the occurrence of a Change in Ownership or Fundamental Change in which each holder of Series B-1 Preferred Stock receives cash consideration at closing equal to two (2) times the Series B-1 Conversion Price (*i.e.*, initially twenty dollars (\$20.00)) or more or (b) the occurrence of a Qualified Public Offering.

“Series B-1 Preferred Stock” has the meaning set forth in the introductory paragraph of Article IV.

“Series B-1 Purchase Agreement” means the Series B-1 Convertible Preferred Stock Purchase Agreement by and among the Corporation and one or more investors, and any other Series B-1 Convertible Preferred Stock Purchase Agreement(s) subsequently entered into by and among the Corporation and one or more investors pursuant to the terms of such initial agreement, as such agreements may from time to time be amended in accordance with their terms.

“Series B-1 Share” has the meaning set forth in Article IV.C.1.(a) hereof.

“Share” means any single share of a class or series of capital stock of the Corporation.

“Subsidiary” means, with respect to any Person, any corporation, limited liability company, partnership, association or other business entity of which (i) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof, is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof, or (ii) if a limited liability company, partnership association or other business entity, a majority of the partnership or other similar ownership interest thereof is at the time owned or controlled, directly or indirectly, by any Person or one or more Subsidiaries of that person or a combination thereof. For purposes hereof, a Person or Persons shall be deemed to have a majority ownership interest in a limited liability company, partnership, association or other business entity if such Person or Persons shall be allocate a majority of limited liability company, partnership, association or other business entity gains or losses or shall be or control the managing general partner of such limited liability company, partnership, association or other business entity.

“Unpurchased Allocated Securities” has the meaning set forth in Article IV.B.8.(a) hereof.

#### **ARTICLE V.**

##### **Registered Office and Agent**

The street address of the registered office of the Corporation's 7825 SW Ellipse Way, Stuart, Florida 34997 and the name of the Corporation's registered agent is Robert Vrugink.

#### **ARTICLE VI.**

##### **Indemnification**

The Corporation shall indemnify each person acting at any time as a director or officer of the Corporation to the fullest extent permitted by law for all actions or omissions relating to such person's acting in such capacity. To the extent permitted by law, the Corporation shall reimburse each such person for all losses, costs or expenses relating thereto upon demand.

**IN WITNESS WHEREOF**, the undersigned has executed this document as of June 10, 2009.

**UNIVERSAL CHEMICAL TECHNOLOGIES,  
INC.**

By: \_\_\_\_\_

Name: Bob Vrugink

Title: Chief Executive Officer