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BASIC AMENDMENT

JIBE, INC.

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| Certificate of Status | 0 |
| Certified Copy | 1 |
| Page Count | 2021 |
| Estimated Charge | \$43.75 |

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**FOURTH ARTICLES OF AMENDMENT
TO
ARTICLES OF INCORPORATION
OF
JIBE, INC.**

The amendment to the Articles of Incorporation of Jibe, Inc. set forth below was approved by that corporation pursuant to Section 607.0704 and Section 607.0821, Florida Statutes, by a written consent of the directors and shareholders of the Corporation dated as of August 13, 2002. The number of votes cast for the amendment by the shareholders was sufficient for approval. The effective date of these Articles of Amendment is August 13, 2002.

FIRST: The Corporation's name is:

Jibe, Inc.

SECOND: The Corporation adopts the following as new Article II (Capital Stock) of its Articles of Incorporation:

ARTICLE II

Capital Stock

A. Generally

The authorized capital stock of the Corporation will be as follows:

| <u>Class of Stock</u> | <u>Number of Authorized Shares</u> | <u>Par Value</u> |
|--|------------------------------------|------------------|
| Common Stock | 20,000,000 | \$.001 |
| Preferred Stock | 5,000,000 | \$.001 |
| Series A Convertible Participating Preferred Stock | 285,698 | \$.001 |
| Series B Convertible Participating Preferred Stock | 250,000 | \$.001 |
| Series C Convertible Participating Preferred Stock | 2,178,154 | \$.001 |

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| | | |
|-----------------|-----------|---------|
| Undesignated | 2,286,148 | \$.001 |
| Preferred Stock | | |

Pursuant to Section 607.0602 of the Florida Business Corporation Act, the Board of Directors is authorized, without the approval of the shareholders of the Corporation, to (a) provide for the classification and reclassification of any unissued shares of Preferred Stock and determine the preferences, limitations, and relative rights thereof and (b) issue Preferred Stock in one or more classes or series, all within the limitations set forth in Section 607.0601 of the Florida Business Corporation Act.

B. Series A Convertible Participating Preferred Stock, Series B Convertible Participating Preferred Stock and Series C Convertible Participating Preferred Stock

1. Dividends.

(a) **Rate.** The holders of record of shares of Series A Convertible Participating Preferred Stock ("**Series A Preferred Stock**") will be entitled to receive dividends (the "**Series A Dividends**") on the sum of \$3.5002 per share (as adjusted below) in an amount equal to the lesser of the following (the "**Series A Preferred Stock Applicable Dividend Rate**"): (i) a rate of seven percent (7%) per annum on the sum of \$3.5002 per share (as adjusted below), plus previously accrued and unpaid Series A Dividends, or (ii) a rate of twenty four and one-half percent (24.5%) simple interest per annum (or the maximum allowable rate chargeable under applicable law, whichever is less). The holders of record of shares of Series B Convertible Participating Preferred Stock ("**Series B Preferred Stock**") will be entitled to receive dividends (the "**Series B Dividends**") on the sum of \$6.00 per share (as adjusted below) in an amount equal to the lesser of the following (the "**Series B Preferred Stock Applicable Dividend Rate**"): (i) a rate of seven percent (7%) per annum on the sum of \$6.00 per share (as adjusted below), plus previously accrued and unpaid Series B Dividends or (ii) a rate of twenty four and one-half percent (24.5%) simple interest per annum (or the maximum allowable rate chargeable under applicable law, whichever is less). The holders of record of shares of Series C Convertible Participating Preferred Stock ("**Series C Preferred Stock**") will be entitled to receive dividends (the "**Series C Dividends**") on the sum of \$1.42322 per share (as adjusted below) in an amount equal to the lesser of the following (the "**Series C Preferred Stock Applicable Dividend Rate**"): (i) a rate of seven percent (7%) per annum on the sum of \$1.42322 per share (as adjusted below), plus previously accrued and unpaid Series C Dividends or (ii) a rate of twenty four and one-half percent (24.5%) simple interest per annum (or the maximum allowable rate chargeable under applicable law, whichever is less). The base amount on which the Corporation pays dividends (initially \$3.5002 per share for the Series A Preferred Stock, \$6.00 per share for the Series B Preferred Stock, and \$1.42322 per share for the Series C Preferred Stock) will be adjusted as follows: If the Corporation at any time subdivides (by any stock split, stock dividend or otherwise) its outstanding shares of any series into a greater number of shares, the amount in effect immediately before the subdivision will be proportionately reduced, and conversely, if the outstanding shares of any series of Series A Preferred Stock, Series B Preferred Stock, or Series

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C Preferred Stock are combined into a smaller number of shares, the amount in effect immediately before the combination will be proportionately increased.

(b) **Accrual.** The Series A Dividends, Series B Dividends, and Series C Dividends will accrue quarterly and be fully cumulative, whether or not declared by the Board of Directors, and whether or not there are profits, surplus, or other legally available funds to pay them. The amount of Series A Dividends, Series B Dividends, and Series C Dividends payable for any period that is shorter or longer than a full annual dividend period will be computed on the basis of a 365-day year and the actual number of days elapsed (including the first day but excluding the last day) occurring in the period for which the amount is payable.

(c) **Payment.** (i) The Corporation shall pay accrued unpaid Series A Dividends in one lump sum payment to the holders of Series A Preferred Stock on the earlier of the following events (the "Initial Dividend Payment Date"): (1) a Conversion Date (as defined below, as to the converted shares only), (2) a Redemption Date (as defined below, as to the redeemed shares only), (3) a Liquidation Event (as defined below, actual or deemed), or (4) January 11, 2008. This lump sum payment shall be made in cash or in Common Stock at the election of the holder of Series A Preferred Stock. If the holder elects to receive payment in the form of Common Stock, the holder shall receive that number of shares of Common Stock equal to the unpaid Series A Dividends divided by the Per Share Fair Market Value (as defined in Section 1(c)(v) below) on the Initial Dividend Payment Date. From and after January 11, 2008, all accrued Series A Dividends will be payable in cash to the holders of Series A Preferred Stock quarterly, in arrears, on the first day of each quarter.

(ii) The Corporation shall pay accrued unpaid Series B Dividends in one lump sum payment to the holders of Series B Preferred Stock on the earlier of the following events: (1) a Conversion Date (as defined below, as to the converted shares only), (2) a Redemption Date (as defined below, as to the redeemed shares only), (3) a Liquidation Event (as defined below, actual or deemed), or (4) January 11, 2008. This lump sum payment shall be made in cash or in Common Stock at the election of the holder of Series B Preferred Stock. If the holder elects to receive payment in the form of Common Stock, the holder shall receive that number of shares of Common Stock equal to the unpaid Series B Dividends divided by the Per Share Fair Market Value on the Initial Dividend Payment Date. From and after January 11, 2008, all accrued Series B Dividends will be payable in cash to the holders of Series B Preferred Stock quarterly, in arrears, on the first day of each quarter.

(iii) The Corporation shall pay accrued unpaid Series C Dividends in one lump sum payment to the holders of Series C Preferred Stock on the earlier of the following events: (1) a Conversion Date (as defined below, as to the converted shares only), (2) a Redemption Date (as defined below, as to the redeemed shares only), (3) a Liquidation Event (as defined below, actual or deemed), or (4) January 11, 2008. This lump sum payment shall be made in cash or in Common Stock at the election of the holder of Series C Preferred Stock. If the holder elects to receive payment in the form of Common Stock, the holder shall receive that number of shares of Common Stock equal to the unpaid Series C Dividends divided by the Per Share Fair Market Value on the Initial Dividend Payment Date. From and after January 11, 2008, all accrued Series

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C Dividends will be payable in cash to the holders of Series C Preferred Stock quarterly, in arrears, on the first day of each quarter.

(iv) If the Corporation cannot fully pay a Series A Dividend, Series B Dividend, or Series C Dividend that is then due and payable, the Corporation shall pay the unpaid dividends to the maximum possible extent and make any partial payments to the holders of the Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock ratably based on the respective amount of Series A Dividends, Series B Dividends, and Series C Dividends otherwise payable to them. For any time period during which payment of a Series A Dividend, Series B Dividend, or Series C Dividend, as the case may be, is due but unpaid, and until such dividend is paid, the Series A Preferred Stock Applicable Dividend Rate, Series B Preferred Stock Applicable Dividend Rate, or Series C Preferred Stock Applicable Dividend Rate, as the case may be, will increase to the following (the "Default Rate"): eighteen percent (18%) per annum, but not in any event more than an amount equal to twenty four and one-half percent (24.5%) simple interest per annum (or if less, the maximum allowable rate chargeable under applicable law) on the sum of \$3.5002 per share for the Series A Preferred Stock, \$6.00 per share for the Series B Preferred Stock, and \$1.42322 per share for the Series C Preferred Stock (each as adjusted pursuant to (a) above).

(v) "Per Share Fair Market Value" means the fair market value of the Corporation's Common Stock on a per share basis on the Initial Dividend Payment Date, determined in accordance with the procedure described in this paragraph. If the event triggering the Initial Dividend Payment Date is a Conversion Date in connection with a Public Offering, the Per Share Fair Market Value will be the price per share to the public in the Public Offering. If the event triggering the Initial Dividend Payment Date is a Liquidation Event, the Per Share Fair Market Value will be the per share amount realized by holders of Common Stock in the liquidation. If the event triggering the Initial Dividend Payment Date is a Redemption Event or January 11, 2008, the Corporation shall follow the procedure set forth in Section 3(c)(1) to determine Per Share Fair Market Value, beginning 120 days before the applicable date.

(vi) For any Series A Preferred Stock or Series B Preferred Stock ("Exchanged Preferred Stock") exchanged for Series C Preferred Stock, the amount of accrued unpaid Series C Dividends on the newly-issued Series C Preferred Stock includes the Series A Dividends and Series B Dividends that accrued from the original issuance of the Exchanged Preferred Stock to the exchange date. These dividends will be accrued unpaid dividends of the Series C Preferred Stock that are payable in accordance with this Section.

(d) Priority to Junior Securities. The Corporation shall not pay any dividends with respect to or redeem any shares of the Junior Securities (as defined below) while any shares of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock remain outstanding.

2. Ranking; Preference on Liquidation.

(a) **Ranking.** The Series A Preferred Stock, Series B Preferred Stock, and Series C Preferred Stock rank senior to all of the Corporation's Common Stock and each other class or series of its preferred stock, whether already existing or later created (collectively, the "Junior Securities").

(b) **Payment on Liquidation.** If the Corporation liquidates, dissolves, or winds up its affairs (voluntarily or involuntarily) (a "Liquidation Event"), after paying or providing for payment of its debts and other liabilities, the Corporation shall pay to the holders of Series A Preferred Stock, Series B Preferred Stock, and Series C Preferred Stock, before paying any amount to the holders of Junior Securities, other than payments made ratably among the holders of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock, and holders of Junior Securities on an as-converted to Common Stock basis pursuant to Section 2(d), a cash amount for each share of Series A Preferred Stock, Series B Preferred Stock and Series C Preferred Stock, as applicable, equal to the Liquidation Price, as defined below. If its assets to be distributed among the holders of Series A Preferred Stock, Series B Preferred Stock, and Series C Preferred Stock on a Liquidation Event are insufficient to permit the Corporation to pay the full Liquidation Price for each share of Series A Preferred Stock, Series B Preferred Stock, and Series C Preferred Stock, the Corporation shall distribute its assets among the holders of Series A Preferred Stock, Series B Preferred Stock, and Series C Preferred Stock ratably based on the respective amounts otherwise payable to them.

(c) **Deemed Liquidation Event.** The following will, at the option of the holders of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock, be deemed to be a Liquidation Event and trigger the Corporation's obligation to pay the Liquidation Price applicable to the series of preferred stock: (1) a merger or consolidation of the Corporation with or into one or more corporations or other entities that results in the exchange of 50% or more of the outstanding shares of any class of capital stock of the Corporation outstanding immediately before the merger or consolidation for securities or other consideration issued or paid by the other corporation; (2) the sale or transfer of all or substantially all of the assets of the Corporation; or (3) the resale by shareholders, in any three-year period, of Common Stock cumulatively constituting 50% or more of the shares of Common Stock outstanding when the applicable series of preferred stock was initially issued. Each series of Preferred Stock may exercise the foregoing option independently, by the vote or consent of holders of a majority of the outstanding shares of that series of Preferred Stock. The Corporation shall notify the holders of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock in writing (the "Liquidation Event Notice") not later than twenty (20) days before the shareholders' meeting called to approve the Liquidation Event, if any, or within twenty (20) days before closing of the transaction, whichever is earlier, and shall also notify the holders in writing of the final approval of the transaction. The first of these notices shall describe the material terms and conditions of the pending transaction and the provisions of this Section 2, and the Corporation shall thereafter give such holders prompt notice of any material changes. The option of the holders of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock to have the foregoing events treated as Liquidation Events may be exercised by written notice given to the Corporation by holders of a majority of the outstanding shares of the applicable series of preferred stock within twenty (20) days of the notifying holders' receipt of the Liquidation Event Notice. If the

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requirements of this subsection 2(c) are not complied with in connection with the Liquidation Event, the Corporation shall either:

(1) cause the closing of the deemed Liquidation Event to be postponed until the requirements of this subsection (c) have been complied with; or

(2) cancel such transaction that constituted a deemed Liquidation Event, in which event the rights, preferences and privileges of the holders of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock shall revert to and be the same as such rights, preferences and privileges existing immediately before the date of the first notice referred to in subsection (c).

(d) **Liquidation Price.** The "Liquidation Price" for Series A Preferred Stock will be (i) the amount of \$3.5002 per share (adjusted pursuant to subsection (e) below) plus accrued and unpaid Series A Dividends, plus (ii) a share of the proceeds remaining after payment of this liquidation preference and the liquidation preference of Series B Preferred Stock and Series C Preferred Stock, distributed on a participating basis ratably among the holders of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, and the holders of Junior Securities on an as-converted to Common Stock basis. The "Liquidation Price" for Series B Preferred Stock will be (A) the amount of \$6.00 per share (adjusted pursuant to subsection (e) below) plus accrued and unpaid Series B Dividends, plus (B) a share of the proceeds remaining after payment of this liquidation preference and the liquidation preference of the Series A Preferred Stock and Series C Preferred Stock, distributed on a participating basis ratably among the holders of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, and the holders of Junior Securities on an as-converted to Common Stock basis. The "Liquidation Price" for Series C Preferred Stock will be (I) the amount of \$1.42322 per share (adjusted pursuant to subsection (e) below) plus accrued and unpaid Series C Dividends, plus (II) a share of the proceeds remaining after payment of this liquidation preference and the liquidation preference of the Series A Preferred Stock and Series B Preferred Stock, distributed on a participating basis ratably among the holders of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, and the holders of Junior Securities on an as-converted to Common Stock basis.

(e) **Payment and Adjustment of the Liquidation Price.** The Corporation shall pay the Liquidation Price to the electing holders of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock upon the consummation of the event treated as a Liquidation Event under Section 2(c). The Corporation shall pay interest to each holder of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock at the Default Rate on any part of the Liquidation Price not paid when due. If the Corporation at any time subdivides (by any stock split, stock dividend or otherwise) its outstanding shares of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock into a greater number of shares, the Liquidation Price for such series in effect immediately before such subdivision will be proportionately reduced, and conversely, if the outstanding shares of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock are combined into a smaller number of shares, the Liquidation Price for such series in effect immediately before the combination will be proportionately increased.

3. Redemption.

(a) **Generally.** Subject to the terms and conditions of this section, any holder of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock may require the Corporation to redeem its shares of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock with cash at the redemption price per share determined pursuant to paragraph (c) of this Section 3 (the "**Redemption Price**"). At any time after September 1, 2007, each holder of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock may require the Corporation to redeem up to one-third of the shares of such stock that it held as of that date. At any time after September 1, 2008, each holder of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock may require the Corporation to redeem another one-third of the shares of such stock that it held as of September 1, 2007 (a total of up to two thirds of the shares that it held as of September 1, 2007). At any time after September 1, 2009, each holder of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock may require the Corporation to redeem all remaining shares of such stock that it still holds. During the period between January 31 and February 28 preceding each of the above dates, the Corporation shall notify each holder of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock of the availability of this redemption option and specify the number of shares of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock subject to the option and the Redemption Price (to the extent calculable). The Corporation shall pay to each holder of redeemed Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock dividends at the Default Rate on any amount of the Redemption Price not paid when due.

(b) **Notice from the Preferred A Holder, Preferred B Holder, or Preferred C Holder.** The Corporation shall effectuate a required redemption within six months after the date of the holder's notice specifying the following: (1) the date of the requested redemption (the "**Redemption Date**"); and (2) unless all shares eligible for redemption are to be redeemed, the number of shares of Series A Preferred Stock, Series B Preferred Stock, and Series C Preferred Stock, as applicable, to be redeemed (the "**Redeemed Shares**"). A holder of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock may cancel its notice with respect to a redemption (and nullify the related redemption) by notifying the Corporation at least ten (10) days before the scheduled Redemption Date or within ten days following any later date on which the Redemption Price is finally determined.

(c) **Redemption Price.** The Redemption Price of the Redeemed Shares will be the highest of the following: (1) the fair market value of the Redeemed Shares on the Redemption Date, as determined by independent appraisal (in accordance with the procedure described below); (2) ten (10) times the Corporation's aggregate Earnings Per Share (as defined below) of the Redeemed Shares; (3) the Book Value (as defined below) of the Redeemed Shares; or (4) the actual amount paid on initial issuance of the Redeemed Shares, plus any dividends (whether or not declared or due) accrued and unpaid on the Redeemed Shares (and any series of preferred stock previously exchanged for the Redeemed Shares) to the Redemption Date.

(1) **Fair Market Value.** At least 120 days before the Redemption

Date, the Corporation shall cause its Board of Directors to establish the fair market value of the Redeemed Shares in good faith and notify each holder of Redeemed Shares of this value. The holders of at least one half of the shares held by the holders of a series of Redeemed Shares may, within twenty (20) days thereafter, notify the Corporation that they disagree with the value placed upon their series of Redeemed Shares and request an appraisal process. Within twenty (20) days thereafter, each of the Corporation and holders of a majority of the holders of a series of Redeemed Shares shall designate an appraiser experienced in the business of evaluating or appraising the market value of stock. The two designated appraisers (the "Initial Appraisers") shall, before fifty (50) days before the Redemption Date, appraise the series of Redeemed Shares as of the latest possible date, without discounting the series of Redeemed Shares for illiquidity or minority ownership interest. If the difference between the resulting appraisals is less than ten percent (10%), the average of the appraisals will be deemed the fair market value; otherwise, the Initial Appraisers shall select an additional appraiser (the "Additional Appraiser"), also experienced in a manner similar to the Initial Appraisers. If they fail to select the Additional Appraiser within twenty (20) days, either the Corporation or the holders the series of Redeemed Shares may apply, after written notice to the other, to any judge of any court of general jurisdiction in Hillsborough County, Florida, for the appointment of the Additional Appraiser. The Additional Appraiser shall then choose from the values determined by the Initial Appraisers the value that the Additional Appraiser considers closest to the fair market value of the series of Redeemed Shares, and this value will be the Appraised Value. The Additional Appraiser shall notify the Corporation and the holders of the series of Redeemed Shares of his determination before the Redemption Date. Each party shall pay the expenses and fees of the appraiser selected by him or it (ratably based on share ownership for the holders of the series of Redeemed Shares), and if an Additional Appraiser is employed, the party who selected the Initial Appraiser whose value determination was rejected by the Additional Appraiser shall pay all the expenses and fees of the Additional Appraiser.

(2) **Other Values.** For purposes of this subsection: (A) the term "Book Value" means, as to any particular shares of stock, the aggregate book value per share of those shares as shown on the Corporation's books of account on the Redemption Date, as determined by the Corporation's independent certified public accountants; and (B) the term "Earnings Per Share" means, as to any particular shares of stock, the Corporation's net profit per share on an after-tax basis for the prior full four calendar quarters before the Redemption Date, as determined based on the Corporation's financial statements for that time period.

(d) **Closing.** The Corporation shall pay the applicable Redemption Price to each holder of redeemed Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock when the holder delivers to the place specified in its notice (1) the certificate(s) evidencing the redeemed Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock, as applicable and (2) transfer instrument(s) sufficient to transfer to the Corporation the redeemed Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock, free of any adverse interest. If a holder redeems less than all of the shares evidenced by a certificate, the Corporation shall issue and deliver to the holder a new certificate evidencing the unredeemed shares, all at the Corporation's expense.

4. **Conversion.** Each share of Series A Preferred Stock, Series B Preferred Stock, and Series C Preferred Stock is convertible by its holder into Common Stock as follows:

(a) **Conversion Option.** Subject to the terms and conditions of this Section 4, the holder of any share of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock may, at the holder's option, at any time and from time to time (except on or following the Redemption Date of the shares proposed to be converted), convert any or all of its shares of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock, as applicable, into the number of fully paid and non-assessable shares of Common Stock determined pursuant to Section 4(c). The holders of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock may continue to exercise this conversion option notwithstanding their receipt of notice of a Liquidation Event.

(b) **Mandatory Conversion.** All shares of Series A Preferred Stock, Series B Preferred Stock, and Series C Preferred Stock then outstanding will automatically be converted into the number of fully paid and non-assessable shares of Common Stock set forth in Section 4(c) as of the date that the Securities and Exchange Commission declares effective a registration of the Common Stock under the Securities Act of 1933, as amended, and the Corporation completes a bona fide offering of its Common Stock to the general public (a "Public Offering") (1) that is underwritten on a firm commitment basis by one or more nationally recognized underwriters, (2) from which the Corporation receives net cash proceeds of at least \$20,000,000, and (3) that provides for an initial offering price to the public per share of Common Stock of at least the greater of: (i) three times the Liquidation Price specified in section 2(d)(1) in effect on the effective date, or (ii) a price per share that reflects a \$75 million pre-money initial public offering valuation for the Corporation. In addition to and not in limitation of the foregoing, on conversion of the Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock to Common Stock in connection with a public offering (whether or not a public offering as defined above), holders of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock shall receive, for each share converted into Common Stock, an amount in cash or Common Stock (at the holders' option, with the Common Stock to be valued at the price per share to the public in the Public Offering), equal to the sum of (i) \$3.5002 for the Series A Preferred Stock, (ii) \$6.00 for the Series B Preferred Stock, and (iii) \$1.42322 for the Series C Preferred Stock, in each case appropriately adjusted for any stock dividend, commission or split with respect to such shares.

(c) **Conversion Price.** Each share of Series A Preferred Stock will be convertible into such number of shares of Common Stock as is determined by dividing \$3.5002 by the Conversion Price in effect on the Conversion Date (as defined below). Each share of Series B Preferred Stock will be convertible into such number of shares of Common Stock as is determined by dividing \$6.00 by the Conversion Price in effect on the Conversion Date. Each share of Series C Preferred Stock will be convertible into such number of shares of Common Stock as is determined by dividing \$1.42322 by the Conversion Price in effect on the Conversion Date. The "Conversion Price" at which shares of Common Stock will be issuable on conversion of shares of the (i) Series A Preferred Stock initially will be \$3.5002 and, thus, initially each such share of Series A Preferred Stock is convertible into one share of Common

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Stock, (ii) Series B Preferred Stock initially will be \$4.50 and, thus, initially each such share of Series B Preferred Stock is convertible into 1.3333 shares of Common Stock, and (iii) Series C Preferred Stock initially will be \$1.42322 and, thus, initially each such share of Series C Preferred Stock is convertible into one share of Common Stock. The Conversion Price for Series A Preferred Stock, Series B Preferred Stock, and Series C Preferred Stock will be subject to adjustment as set forth in Section 4(c).

(d) **Mechanics of Conversion.** A holder may exercise the conversion right specified in Section 4(a) as to all or any part of its Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock, as applicable, by surrendering to the Corporation (or to another person designated by the Board of Directors) the certificates evidencing the shares it elects to convert, endorsed and assigned to the Corporation in blank, and accompanied by written notice confirming the holder's exercise of its conversion option as to all or a specified portion of the shares evidenced by the certificates. Each holder of outstanding Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock will promptly surrender its stock certificates to the Corporation on a mandatory conversion pursuant to Section 4(b). Conversion of shares of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock to Common Stock will be effective when the holder delivers to the Corporation notice of its election to convert and certificates evidencing the converted shares (for a conversion pursuant to Section 4(a)) or on the date of the Public Offering (for a conversion pursuant to Section 4(b)) (the foregoing respective dates are the "Conversion Date"). As promptly as practicable after the Conversion Date and in any event within five days after surrender of the certificate or certificates representing converted shares of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock, as applicable, the Corporation will issue and deliver, or cause to be issued or delivered, at its expense to a converting holder (or to another person designated in writing by the holder consistently with the provisions of the Amended and Restated Shareholder Agreement dated September 27, 2001), a certificate evidencing the number of whole shares of Common Stock to which such holder is entitled. The person in whose name the certificate or certificates for Common Stock are to be issued will be deemed the holder of such Common Stock as of the close of business on the Conversion Date. On conversion of only a portion of the number of shares evidenced by a certificate surrendered for conversion, the Corporation will issue and deliver at its expense to the converting holder (or to another person designated in writing by the holder, consistently with the provisions of the Shareholder Agreement) a new certificate for the number of shares of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock, as applicable, evidencing the unconverted portion of the surrendered certificate. At the close of business on the Conversion Date, (1) the converted shares of Series A Preferred Stock, Series B Preferred Shares, or Series C Preferred Stock, as applicable, will cease to be outstanding, (2) the holders of the converted shares will cease to have any further rights with respect to those shares, except to receive Common Stock and cash (as specified below) with respect to the converted shares, and (3) the holders of the converted shares will be deemed to have become the holder of the Common Stock for all purposes. If a conversion pursuant to Section 4(a) is in connection with an underwritten offering of securities registered pursuant to the Securities Act of 1933, as amended, the conversion may, at the option of any holder tendering the Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock for conversion, be conditioned upon the sale of securities to the underwriters pursuant to such

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offering, in which event the person(s) entitled to receive the Common Stock upon conversion of the Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock shall not be deemed to have converted such Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock, as applicable, until immediately prior to the closing of such sale of securities. No fractional shares of Common Stock shall be issued upon conversion of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock (or any specified portion thereof), the Corporation shall pay to the holder in lieu thereof an amount in cash equal to the product of such resulting fraction and the applicable Conversion Price.

(e) **Adjustments of Conversion Price On Issuance of Common Stock.** If the Corporation issues or sells (or pursuant to subparagraphs (e)(1) through (e)(8), is deemed to issue or sell) any shares of Common Stock for consideration per share less than the Conversion Price for Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock, as applicable, in effect immediately before the issuance or sale, the Conversion Price will be reduced to the price, calculated to the nearest one-hundredth of a cent, determined by dividing (1) an amount equal to the sum of (a) the number of shares of Common Stock outstanding immediately before such issuance or sale (including as outstanding all shares of Common Stock issuable on conversion of outstanding Series A Preferred Stock, Series B Preferred Stock, and Series C Preferred Stock and on exercise of outstanding options) multiplied by the then existing Conversion Price and (b) the consideration, if any, received by the Corporation upon such issuance or sale, by (2) the total number of shares of Common Stock outstanding immediately after such issuance or sale (including as outstanding all shares of Common Stock issuable on conversion of outstanding Series A Preferred Stock, Series B Preferred Stock, and Series C Preferred Stock, based on the conversion ratio in effect immediately before the issuance, and on exercise of outstanding options). Notwithstanding the foregoing, no adjustment of the Conversion Price shall have the effect of increasing the Conversion Price above the Conversion Price in effect immediately prior to such adjustment.

For purposes of this paragraph (e), the following subparagraphs (e)(1) to (e)(8) also apply to conversion of the Series A Preferred Stock, Series B Preferred Stock, and Series C Preferred Stock to Common Stock:

(e)(1) **Issuance of Rights or Options.** In case the Corporation in any manner issues (whether directly or by assumption in a merger or otherwise) warrants or other rights to subscribe for or purchase, or options to purchase, Common Stock or stock or securities convertible into or exchangeable for Common Stock (the warrants, rights or options are "**Options**" and the convertible or exchangeable stock or securities are "**Convertible Securities**"), whether or not the Options or Convertible Securities are immediately exercisable, and the price per share (determined, for a formula price, based on current circumstances or, if dependent on future circumstances, facts that would result in the lowest price per share) for which Common Stock is issuable on the Options' exercise or on the conversion or exchange of the Convertible Securities (determined by dividing (1) the total amount, if any, payable to the Corporation as consideration for the Option grant, plus the aggregate amount of additional consideration payable to the Corporation on the Option exercise, plus, in the case of any Options that relate to

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Convertible Securities, any consideration payable on the issue or sale of the Convertible Securities and on their conversion or exchange, by (2) the total number of shares of Common Stock issuable upon the Options' exercise or on the conversion or exchange of Convertible Securities issuable on the Options' exercise) is less than the Conversion Price in effect immediately before the Option grant, the total number of shares of Common Stock issuable on the Options' exercise or on conversion or exchange of any Convertible Securities issuable on the Options' exercise will be deemed issued for such price per share on the date of the Options' grant and thereafter will be deemed outstanding. Except as otherwise provided in subparagraph (e)(3), the Conversion Price will not be further adjusted when the Common Stock is actually issued on exercise of the Options or conversion or exchange of Convertible Securities.

(e)(2) **Issuance of Convertible Securities.** In case the Corporation in any manner issues (whether directly or by assumption in a merger or otherwise) or sells Convertible Securities, whether or not the rights to exchange or convert the Convertible Securities are immediately exercisable, and the price per share (determined, in the case of a formula price, on the basis of current circumstances or, if dependent on future circumstances, the facts would result in the lowest price per share) for which Common Stock is issuable upon the conversion or exchange (determined by dividing (1) the total amount payable to the Corporation as consideration for the issue or sale of the Convertible Securities, plus the aggregate amount of additional consideration, if any, payable to the Corporation on their conversion or exchange, by (2) the total number of shares of Common Stock issuable on conversion or exchange of all such Convertible Securities) is less than the Conversion Price in effect immediately before the issue or sale, then the total number of shares of Common Stock issuable upon conversion or exchange of the Convertible Securities will be deemed to be issued for such price per share as of the date of the issue or sale of the Convertible Securities and thereafter will be deemed outstanding, provided that (a) except as provided in subparagraph (e)(3), no further adjustment of the Conversion Price will be made otherwise when the Common Stock is actually issued on conversion or exchange of the Convertible Securities and (b) the Conversion Price will not be further adjusted pursuant to this subsection for the issue or sale of Convertible Securities on the exercise of Options to purchase the Convertible Securities if the Conversion Price has been or will be adjusted for the transaction pursuant to other provisions of this paragraph (e).

(e)(3) **Change in Option Price or Conversion Rate.** Upon the happening of any of the following events, namely, if the purchase price provided for in any Option referenced in subparagraph (e)(1), the additional consideration, if any, payable upon the conversion or exchange of any Convertible Securities referred to in subparagraph (e)(1) or (e)(2), or the rate at which Convertible Securities referred to in subparagraph (e)(1) or (e)(2) are convertible into or exchangeable for Common Stock changes at any time (including, but not limited to, changes under or by reason of provisions designed to protect against dilution), the Conversion Price in effect at the time of such event will be readjusted to the Conversion Price which would have been effective at that time had the Options or Convertible Securities still outstanding provided for such changed purchase

price, additional consideration or conversion rate, as the case may be, when initially granted, issued or sold; and on the expiration of the Options or the termination of a right to convert or exchange any Convertible Securities, the Conversion Price then in effect will be increased to the Conversion Price that would have been in effect at the time of the expiration or termination had the Options or Convertible Securities never been issued.

(e)(4) **Stock Dividends and Subdivisions.** In case the Corporation declares a dividend or makes any other distribution on stock of the Corporation payable in Common Stock (except for dividends or distributions payable in shares of Common Stock upon the Series A Preferred Stock, Series B Preferred Stock, and Series C Preferred Stock), Options, or Convertible Securities, the Common Stock, Options, or Convertible Securities, as the case may be, issuable in payment of the dividend or distribution will be deemed to have been issued or sold (as of the record date) without consideration (except for the consideration payable to exercise any Options or convert any Convertible Securities). In case the Corporation subdivides (by any stock split, stock dividend or otherwise) its outstanding shares of Common Stock into a greater number of shares, the Conversion Price then in effect will be proportionately reduced to reflect the subdivision. In case the Corporation combines its outstanding shares of Common Stock into a fewer number of shares, the Conversion Price then in effect will be proportionately increased to reflect the combination. An adjustment made pursuant to this paragraph (e)(4) will become effective retroactively (x) in the case of any such dividend or distribution, to a date immediately following the close of business on the record date for determination of the holders of Common Stock entitled to receive such dividend or distribution, or (y) in the case of any such subdivision or combination, to the close of business on the day upon which such corporate action becomes effective.

(e)(5) **Consideration for Stock.** In case any shares of Common Stock, Options, or Convertible Securities are issued or sold for cash, the consideration deemed to be received will be the amount actually received by the Corporation, without deduction of any expenses incurred or any underwriting commissions or concessions paid or allowed by the Corporation in connection with the issuance or sale. In case any shares of Common Stock, Options, or Convertible Securities are issued or sold for a consideration other than cash, the amount of the consideration other than cash received by the Corporation will be the fair value of such consideration as determined in good faith by the Corporation's Board of Directors, without deduction of any expenses incurred or any underwriting commissions or concessions paid or allowed by the Corporation in connection with the issuance or sale.

(e)(6) **Record Date.** If the Corporation does not set a record date to determine the holders of its Common Stock entitled (1) to receive a dividend or other distribution payable in Common Stock, Options, or Convertible Securities or (2) to subscribe for or purchase Common Stock, Options, or Convertible Securities, the record date will 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 a dividend or the making of another

distribution or the date of the granting of such right of subscription or purchase, as the case may be.

(e)(7) **Treasury Shares.** The number of shares of Common Stock outstanding at any given time does not include shares owned or held by or for the account of the Corporation, and its disposition of these shares will be considered an issue or sale of Common Stock for purposes of this subparagraph (e)(7).

(e)(8) **Reports as to Adjustments.** Whenever the Conversion Price is adjusted as provided in this subsection, the Corporation will promptly compute the adjustment and furnish to each holder of shares of the Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock, as applicable, a certificate, signed by a principal financial officer of the Corporation, setting forth the new Conversion Price and the number of shares of Common Stock into which each share of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock, as applicable, is convertible as a result of the adjustment, a brief statement of the facts requiring the adjustment, the computation of the adjustment, and when the adjustment will become effective.

(f) **Certain Issues of Common Stock Excepted.** Notwithstanding the foregoing provisions, the Corporation will not be required to adjust the Conversion Price in the case of the issuance of, in the case of the Common Stock, up to the aggregate of (1) 1,200,347 additional shares of Common Stock that have been issued or are available for issuance pursuant to options or restricted stock grants to the Corporation's officers, directors, employees or agents (in each case, appropriately adjusted to reflect the occurrence of an event described in paragraph (e)), (2) shares of Common Stock issuable on conversion of the Series A Preferred Stock, Series B Preferred Stock, and Series C Preferred Stock, and (3) shares of Common Stock or warrants to purchase Common Stock issued in connection with commercial credit arrangements, equipment lease financings, or similar transactions into which the Corporation may enter with a non-affiliate, provided the issuance is affirmatively approved by the holders of a majority of the Series A Preferred Stock, a majority of the Series B Preferred Stock, a majority of the Series C Preferred Stock and such issuances together aggregate less than one percent (1%) of the outstanding Common Stock (on an as converted basis).

(g) **Reservation of Stock Issuable Upon Conversion.** The Corporation will reserve out of its authorized but unissued Common Stock, solely for the purposes of effecting the conversion of the Series A Preferred Stock, Series B Preferred Stock, and Series C Preferred Stock, the number of shares of Common Stock issuable on conversion of all outstanding Series A Preferred Stock, Series B Preferred Stock, and Series C Preferred Stock. The holders of Common Stock do not have any preemptive right to purchase these reserved shares. If at any time the number of authorized but unissued shares of Common Stock are not sufficient to effect the conversion of all then outstanding shares of the Series A Preferred Stock, Series B Preferred Stock, and Series C Preferred Stock, in addition to such other remedies as are available to the holder of the Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock, the corporation shall take the corporate action that in the opinion of its counsel is necessary to increase its authorized but unissued shares of Common Stock to the number of shares that are

sufficient for those purposes, including engaging in its best efforts to secure the requisite shareholder approval of any needed amendment to these Articles of Incorporation.

(h) **Payment of Taxes.** The Corporation will pay any and all taxes, documentary or otherwise, that are payable with respect to the issuance or delivery of Common Stock on conversion of the Series A Preferred Stock, Series B Preferred Stock, and Series C Preferred Stock. The Corporation will not, however, be required to pay tax with respect to a transfer involved in the issue or transfer and delivery of shares of Common Stock in a name other than the record name of the converted Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock, and no issuance or delivery will be made unless and until the person requesting such issue pays to the Corporation the amount of any such tax or establishes to the Corporation's satisfaction payment of the tax or that no tax is due. In no event need the Corporation pay or reimburse a registered holder for any income tax or ad valorem tax payable by the holder because of the issuance of Common Stock on conversion of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock.

(i) **No Reissuance of Series A Preferred Stock, Series B Preferred Stock, and Series C Preferred Stock.** The Corporation will cancel shares of Series A Preferred Stock, Series B Preferred Stock, and Series C Preferred Stock converted pursuant to this Section 4.

(j) **No Conversion of Series A Preferred Stock, Series B Preferred Stock, and Series C Preferred Stock Being Redeemed.** Notwithstanding this Section 4, no share of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock for which the holder has given a redemption notice pursuant to Section 3 may be converted into Common Stock, unless the holder effectively withdraws the redemption notice and nullifies the redemption.

(k) **Adjustments for Merger, Consolidation, etc.** In the case of any classification, reclassification, or other reorganization of the Corporation's capital stock, or in the case of the merger or consolidation of the Corporation with or into another corporation, or the conveyance to another corporation of all or any major portion of the Corporation's assets, then, as part of the classification, reclassification, merger, consolidation, or conveyance, adequate provision will be made for each holder of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock on exercise of its conversion privilege, to receive on the same basis and conditions set forth in this Section 4 with respect to the Common Stock, the stock, securities, or other property that the holder would have been entitled to receive on such classification, reclassification, merger, consolidation, or conveyance, if the holder had exercised the conversion privilege immediately before the classification, reclassification, merger, consolidation, or conveyance, and in any such case appropriate provision will be made with respect to the rights and interests of the holder to the end that the provisions of this Section 4 (including without limitation, provision for adjustment of the Conversion Price) will be applicable to the shares of stock, securities, or other property deliverable on the exercise of the conversion privilege; and, as a condition of any consolidation, merger, or conveyance, any corporation that succeeds to the Corporation by reason of the merger, consolidation or conveyance will assume the obligation to deliver, on exercise of the conversion privilege, the shares of stock, securities or other

considerations that the holders of the Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock are entitled to receive pursuant to this Section 4.

(1) **No Impairment.** The Corporation will not, by amendment to the Articles of Incorporation or through any reorganization, recapitalization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Corporation, but will at all times in good faith assist in the carrying out of all the provisions of this Section 4 and in the taking of all such action as may be necessary or appropriate in order to protect the conversion rights of the holders of the Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock against impairment.

5. **Voting.** In addition to its voting rights specially provided for in these articles or granted by applicable law, each holder of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock will be entitled to voting rights with respect to all matters on which holders of Common Stock have the right to vote, except for those matters relating to nomination, election and removal of Common Directors under Article III. Each holder of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock may vote that number of votes equal to the number of whole shares of Common Stock into which the holder's shares of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock would be convertible pursuant to the provisions of Section 4 as of the record date for the determination of shareholders entitled to vote on the matter. Each holder's votes will be counted together with all other shares of capital stock having general voting powers and not separately as a class, except as otherwise provided in these articles or by applicable law. In cases in which the holders of shares of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock are entitled to approve a matter or vote separately as a class, each holder will be entitled to one vote for each of its shares and the vote of a majority of the outstanding shares of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock, as applicable, will constitute the action of that class.

6. **Authorization of Additional Classes of Shares.** So long as shares of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock remain outstanding, the Corporation will not, without the vote or prior written consent of holders of a majority in interest of the then outstanding shares of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock authorize the creation of a new class of shares having dividend rights or liquidation preferences equal or superior to the Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock, or improve the dividend rights or liquidation preferences of the Junior Securities such that they become equal or superior to the Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock.

7. **Amendment of Articles of Incorporation.** So long as any shares of the Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock are outstanding, the Corporation will not, without the affirmative vote of holders of a majority in interest of the affected series of preferred stock voting together as a single class, in addition to any other vote, consent, or approval required by law or otherwise, amend the Corporation's Articles of

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Incorporation or Bylaws in any manner which adversely affects the relative rights and preferences of the Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock or changes any of the rights, preferences, or interests of the Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock.

8. **No Reissuance of Shares.** Any shares of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock redeemed or otherwise reacquired by the Corporation will be canceled and not available for further issuance.

9. **Notices.** Any notice required by the provisions of this Article II to be given to the holders of shares of the Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock shall be deemed given (i) upon personal delivery to the party to be notified, (ii) when sent by confirmed telex or facsimile if sent during normal business hours of the recipient, if not, then on the next business day, (iii) five days after having been sent by registered or certified mail, return receipt requested, postage prepaid or (iv) one day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications shall be sent to each holder of record at his address appearing on the books of this Corporation.

10. **Savings Clause.** The Corporation and the holders of the Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock intend to comply strictly with applicable law regulating the maximum allowable rate or amount of interest that may be charged and collected on amounts due with respect to the Series A Preferred Stock, Series B Preferred Stock, and Series C Preferred Stock. Accordingly, the maximum aggregate amount of interest and other charges constituting interest under applicable law that are payable, chargeable, or receivable with respect to the Series A Preferred Stock, Series B Preferred Stock, and Series C Preferred Stock shall not exceed 24.5% simple interest per annum or any lesser allowable amount under applicable law. The Corporation shall not be liable for any amounts in excess of the maximum lawful amounts, and any excess interest charged or collected by the holders of the Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock will constitute an inadvertent mistake and, if charged but not paid, will be cancelled automatically, or if paid, will either be refunded to the Corporation or credited against future amounts owed by the Corporation to the holders of the Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock, as applicable, at the discretion of the Corporation.

THIRD: The Corporation adopts the following as new Article III (Directors) of its Articles of Incorporation:

ARTICLE III - Directors

1. **Number of Members of Board of Directors.** The Board of Directors of the Corporation shall consist of up to seven (7) Directors, of which: (a) the holders of a majority of the Series A Preferred Stock, Series B Preferred Stock, and Series C Preferred Stock voting together as a single class will nominate and elect two (2) directors (the "Preferred Directors"), (b) the holders of the Common Stock voting as a single class will nominate and elect one (1)

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director (the "Common Director"), (c) the chief executive officer of the Corporation will be one (1) director (the "CEO Director"), and (d) one (1) director (the "Joint Director") will be nominated and elected by mutual approval of both (i) the holders of the Series A Preferred Stock, Series B Preferred Stock, and Series C Preferred Stock (voting together as a single class) and (ii) the chief executive officer of the Corporation. The holders of the Common Stock for purposes of this Section 1 and Section 2 below shall not be determined on an as-converted basis, but rather by the identification of the holders of Common Stock on the record date of the election. If the Corporation fails to make "Qualified Sales" to two Fortune 1000 companies before December 31, 2002, the number of Preferred Directors will be increased from two (2) to four (4). For purposes of this Section 1, one "Qualified Sale" means the Corporation enters into a license to use its Jibe Enterprise P2P software, in which the licensee agrees to make total payments to the Corporation under the license agreement of at least \$250,000, including non-contingent payments for the software license of at least \$250,000. The Corporation will not be considered to have engaged in two Qualified Sales unless by December 31, 2002, the Corporation furnishes to each holder of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock a certificate confirming that it completed the "Qualified Sales" and including with the certificate copies of the two qualifying license agreements. Before January 15, 2003, the Corporation shall submit to each holder of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock a proposed form of amendment to its Articles of Incorporation that deletes reference to this adjustment arrangement and reflects the proper number of Preferred Directors, depending on whether the Corporation completed Qualified Sales. The Corporation shall file this amendment with the Florida Department of State within ten (10) days after it is approved by a majority of the holders of Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock which approval will not be unreasonably withheld. (The other holders of the Corporation's capital stock need not approve the amendment.)

2. **Designation of Nominees.** The holders of a majority of the shares of Series A Preferred Stock, Series B Preferred Stock, and Series C Preferred Stock voting together as a single class, may nominate and elect the Preferred Directors. The holders of a majority of the shares of Common Stock, voting as a single class, may nominate and elect the Common Director. If the holders of the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, or Common Stock, as the case may be, fail to nominate and elect a person to serve as director, that position on the Board of Directors will be left vacant until they do so. The holders of the Series A Preferred Stock, Series B Preferred Stock, and Series C Preferred Stock and chief executive officer of the Corporation will nominate and elect the Joint Director as provided in Section 1 above. The Joint Director shall be an outside, independent director (*i.e.*, not an officer, employee, shareholder, or consultant of the Corporation and not a family member of those persons).

3. **Removal of Directors; Election of Successors.** The holders of a majority of the Series A Preferred Stock, Series B Preferred Stock, and Series C Preferred Stock (voting together as a single class), the holders of a majority of the Common Stock, or the holders of a majority of the Series A Preferred Stock, Series B Preferred Stock, and Series C Preferred Stock (voting together as a single class) and the chief executive officer of the Corporation, by mutual consent, may each remove the respective directors that they designated pursuant to Section 2, with or

without cause, by notice to the Corporation. If a director is so removed, resigns, is unable to serve, or for any other reason a vacancy in a Board position occurs, then the holders of shares that elected that director may replace the director. In each case, the applicable class or series may act by written notice to the Corporation, signed by holders of a majority of the outstanding shares of that class or series, or by action at a meeting called for that purpose.

4. **Compensation and Audit Committees.** The Corporation establishes a Compensation Committee and an Audit Committee of the Board of Directors. The Compensation and Audit Committees of the Board of Directors will be composed solely of non-management, non-employee outside directors. The Compensation Committee and the Audit Committee will each consist of two directors, one of whom is a Preferred Director, and one of whom is the Joint Director (who must be an independent director). The Corporation shall not pay management salaries and other "compensation" (as that term is defined in Section 8.5 of the Investment Agreement dated February 20, 2002), except as approved by the Compensation Committee of the Board of Directors.

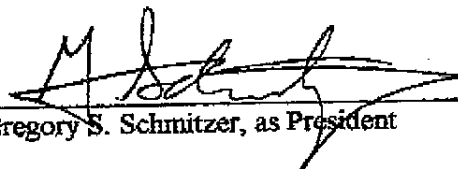
5. **Quorum of Board of Directors.** A quorum for the transaction of business at all meetings of the Board of Directors shall be a majority of the number of directors comprising the Board of Directors; however, so long as the holders of the Series A Preferred Stock, Series B Preferred Stock, and Series C Preferred Stock, voting as a single class, are entitled to elect one or more directors to the Board of Directors, at least one Preferred Director is required for a quorum of the Board of Directors. However, the presence of at least one Preferred Director will not be required for a quorum of the Board of Directors with respect to a particular Board meeting, if all Directors receive proper, advance written notice of the meeting and no Preferred Director attends the meeting.

6. **Expense Reimbursement.** The Corporation shall reimburse the directors for all reasonable out-of-pocket expenses (including travel and lodging) incurred by a director in connection with serving in the position, including but not limited to the cost of attending meetings of the Board of Directors.

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Gregory S. Schmitzer, as President

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