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BASIC AMENDMENT

JIBE, INC.

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AMEND
DEC
03/17/2003

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**JIBE, INC.
SECOND ARTICLES OF AMENDMENT
TO
AMENDED AND RESTATED ARTICLES OF INCORPORATION**

This Second Articles of Amendment to the Amended and Restated Articles of Incorporation of Jibe, Inc. set forth below was approved by the Corporation pursuant to Section 607.0704 and Section 607.0821, Florida Statutes, by a written consent of directors of the Corporation dated as of March 12, 2003 and a written consent of shareholders of the Corporation dated as of March 12, 2003. The number of votes cast for the amendment by the shareholders as a single class and by the holders of Common Stock, Series A Convertible Participating Preferred Stock, and Series B Preferred Stock each as a separate class was sufficient for approval. This Second Articles of Amendment to Amended and Restated Articles of Amendment shall be effective on the date and at the time it is filed with the Florida Department of State.

FIRST: The Corporation name is:
Jibe, Inc.

SECOND: Article II.A. (Capital Stock - Generally) of the Corporation's Amended and Restated Articles of Incorporation is amended in its entirety as follows:

ARTICLE II

Capital Stock

A. Generally. The authorized capital stock of the Corporation will be 30,000,000 shares, designated 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	10,000,000	\$.001
Series A Convertible Participating Preferred Stock	2,178,154	\$.001
Series B Preferred Stock	1,489,000	\$.001
Undesignated Preferred Stock	6,332,846	\$.001

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

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one or more classes or series, all within the limitations set forth in Section 607.0601 of the Florida Business Corporation Act.

SECOND: Article II.B.2(a) of the Corporation's Amended and Restated Articles of Incorporation is amended in its entirety as follows:

(a) **Ranking.** Except to the extent that the holders of a majority of the Series A Preferred Stock approve otherwise, the Series A Preferred Stock ranks 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 other than the Series B Preferred Stock (collectively, the "Junior Securities").

THIRD: Article II.C. (Series B Preferred Stock) of the Corporation's Amended and Restated Articles of Incorporation is amended in its entirety as follows:

C. Series B Preferred Stock

1. Dividends.

(a) **Rate.** The holders of record of shares of Series B Preferred Stock ("Series B Preferred Stock") will be entitled to receive dividends (the "Series B Dividends") in an amount equal to ten percent (10%) per annum on the sum of \$1.00 per share (as adjusted below), plus previously accrued and unpaid Series B Dividends (the "Series B Preferred Stock Dividend Rate"). The base amount on which the Corporation pays dividends (initially \$1.00 per share for the Series B 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 B 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 B 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 B 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.** The Corporation shall pay accrued unpaid Series B Dividends in one lump sum payment to the holders of Series B Preferred Stock on a Liquidation Event (as defined below, actual or deemed) or on a Redemption Event (as defined below).

(d) **Priority.** The Corporation shall not pay any dividends with respect to any shares of the Common Stock or any other class of or series of Preferred Stock (other than the Series A Preferred Stock) while any shares of Series B Preferred Stock remain outstanding.

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2. Ranking; Preference on Liquidation.

(a) **Ranking.** The Series B Preferred Stock ranks senior to all of the Corporation's Common Stock and Series A Preferred Stock, and each other class or series of its preferred stock, whether already existing or later created (collectively, the "Series B Junior Securities"), except to the extent that the issuance of a senior or parity class is approved by the holders of a majority of the Series B Preferred Stock. The Corporation shall not redeem any shares of the Series B Junior Securities while any shares of Series B Preferred Stock remain outstanding.

(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 B Preferred Stock, before paying any amount to the holders of Series B Junior Securities, a cash amount for each share of Series B Preferred Stock, equal to the Series B Liquidation Price, as defined below. If its assets to be distributed among the holders of Series B Preferred Stock on a Liquidation Event are insufficient to permit the Corporation to pay the full Series B Liquidation Price for each share of Series B Preferred Stock, the Corporation shall distribute its assets among the holders of Series B 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 B Preferred Stock, be deemed to be a Liquidation Event and trigger the Corporation's obligation to pay the Series B Liquidation Price applicable to the Series B 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. The Corporation shall notify the holders of Series B 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 B Preferred Stock to have the foregoing events treated as Liquidation Events may be exercised by written notice given to the Corporation within twenty (20) days of the notifying holders' receipt of the Liquidation Event Notice. If the 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

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(2) cancel the transaction that constituted a deemed Liquidation Event, in which event the rights, preferences and privileges of the holders of Series B 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 "Series B Liquidation Price" will be the amount of \$1.00 per share (adjusted pursuant to subsection (e) below) plus accrued and unpaid Series B Dividends.

(e) **Payment and Adjustment of the Liquidation Price.** The Corporation shall pay the Series B Liquidation Price to the electing holders of Series B 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 B 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 B Preferred Stock into a greater number of shares, the Series B Liquidation Price in effect immediately before such subdivision will be proportionately reduced, and conversely, if the outstanding shares of Series B Preferred Stock are combined into a smaller number of shares, the Series B Liquidation Price 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 B Preferred Stock may require the Corporation to redeem its shares of Series B Preferred Stock with cash at the Series B Liquidation Price (the "Redemption Price") on the occurrence of any financing transaction in which the Corporation receives funding of more than \$100,000, other than in connection with an issuance of Series B Preferred Stock. The Corporation shall pay to each holder of redeemed Series B Preferred Stock dividends at the Default Rate on any amount of the Series B Liquidation Price not paid when due.

(b) **Notice from the Series B Preferred Holder.** The Corporation shall promptly notify the holders of Series B Preferred Stock of any proposed financing transaction that would trigger their right to redemption. The holders of Series B Preferred Stock will have at least ten days to elect to have their shares redeemed by notifying the Corporation, specifying the number of shares of Series B Preferred Stock to be redeemed (the "Redeemed Shares").

(c) **Closing.** The Corporation shall pay the applicable Redemption Price to each holder of Redeemed Shares when the holder delivers to the place specified in its notice (1) the certificate(s) evidencing the Redeemed Shares, as applicable, and (2) transfer instrument(s) sufficient to transfer to the Corporation the Redeemed Shares, 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.** The shares of Series B Preferred Stock are not convertible into Common Stock.

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5. **Voting.** On matters for which the holders of shares of Series B 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 B Preferred Stock will constitute the action of that class.

6. **Authorization of Additional Classes of Shares.** So long as shares of Series B 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 B Preferred Stock authorize the creation of a new class of shares having dividend rights or liquidation preferences equal or superior to the Series B Preferred Stock, or improve the dividend rights or liquidation preferences of the Series B Junior Securities such that they become equal or superior to the Series B Preferred Stock.

7. **Amendment of Articles of Incorporation.** So long as any shares of the Series B Preferred Stock, 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 Incorporation or Bylaws in any manner which adversely affects the relative rights and preferences of the Series B Preferred Stock or changes any of the rights, preferences, or interests of the Series B Preferred Stock.

8. **No Reissuance of Shares.** Any shares of Series B 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 B 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 B 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 B 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 B Preferred Stock shall not exceed 18% 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 B 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 B Preferred Stock, as applicable, at the discretion of the Corporation.

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FOURTH: Article III (Directors) of the Corporation's Amended and Restated Articles of Incorporation is amended in its entirety as follows:

ARTICLE III - Directors

1. **Number of Members of Board of Directors.** The Board of Directors of the Corporation shall consist of up to three (3) Directors, of which: (a) a majority of the Series A Preferred Stock will nominate and elect two (2) directors (the "Preferred Directors"), and (b) a majority of the Common Stock will nominate and elect one (1) director (the "Common Director"). 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.

2. **Designation of Nominees.** A majority of the shares of Series A Preferred Stock may nominate and elect the Preferred Directors. A majority of the shares of Common Stock may nominate and elect the Common Director. If the holders of the Series A 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.

3. **Removal of Directors; Election of Successors.** The holders of a majority of the Series A Preferred Stock or the holders of a majority of the Common Stock, 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, both of whom are the Preferred Directors. The Corporation shall not pay management salaries and other "compensation" (as that term is defined in Section 8.5 of the Investment Agreement dated as of August 13, 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 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.

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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.

Executed: March 12, 2003.


Herbert Neal Ater, Chief Executive Officer

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