

PD1000008536

(Requestor's Name)

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☐ PICK-UP

☐ WAIT

☐ MAIL

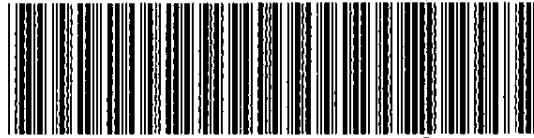
(Business Entity Name)

(Document Number)

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Amend

07/01/11--01001--010 **43.75

OFFICE OF THE
DIVISION OF CORPORATIONS
TALLAHASSEE, FLORIDA

11 JUN 30 PM 4:24
2011 JUN 30 PM 4:31

RECEIVED FILED

Ok to file as
amended to amended
& restated per KB

P92
6/30/11

1961 E. Dougherty DA
Requester's Name
2457 Cave Drive
Address
Tallahassee FL 878-2411
City/State/Zip Phone #

Office Use Only

CORPORATION NAME(S) & DOCUMENT NUMBER(S), (if known):

1. Giant Holdings, Inc. PO1000008536
(Corporation Name) (Document #)
2. _____
(Corporation Name) (Document #)
3. _____
(Corporation Name) (Document #)
4. _____
(Corporation Name) (Document #)

- ☒ Walk in ☒ Pick up time ☒ Certified Copy
☐ Mail out ☒ Will wait ☐ Photocopy ☐ Certificate of Status

NEW FILINGS

- ☐ Profit
☐ Not for Profit
☐ Limited Liability
☐ Domestication
☐ Other

OTHER FILINGS

- ☐ Annual Report
☐ Fictitious Name

AMENDMENTS

- ☒ Amendment
☐ Resignation of R.A., Officer/Director
☐ Change of Registered Agent
☐ Dissolution/Withdrawal
☐ Merger

REGISTRATION/QUALIFICATION

- ☐ Foreign
☐ Limited Partnership
☐ Reinstatement
☐ Trademark
☐ Other

Examiner's Initials

**GIANT HOLDINGS, INC.
ARTICLES OF AMENDMENT**

**AMENDED & RESTATED
CERTIFICATE OF THE DESIGNATION,
PREFERENCES, RIGHTS AND LIMITATIONS OF**

SERIES A MANDATORILY CONVERTIBLE PREFERRED STOCK

The undersigned, Perry LaCaria, Chief Executive Officer of Giant Holdings, Inc. (the "Company"),

DOES HEREBY CERTIFY:

That, pursuant to the authority expressly conferred upon the Board of Directors of the Company by Article III of the Articles of Incorporation of the Company, and in accordance with the provisions of Sections 607.0825(1)(e) and 607.0602, *Florida Statutes*, the Board of Directors, at a meeting held on June 24, 2011, adopted the following amendment which provides for the amended and restated designation of the Company's Series A Mandatorily Convertible Preferred Stock, which was previously designated and filed with Florida Secretary of State Division of Corporations on February 8, 2011. The following constitutes the relative rights and preferences of the Series A Mandatorily Convertible Preferred Stock:

1. **Designation.** The designation of the series of preferred stock shall be Series A Mandatorily Convertible Preferred Stock ("Series A Preferred Stock") and the number of shares constituting such series shall be 200,000 shares. The Series A Preferred Stock shall rank prior to the common stock of the Company ("Common Stock") with respect to the payment of dividends and distribution of assets.

2. **Dividend Rights.** The holders of shares of Series A Preferred Stock shall be entitled to receive quarterly dividends, payable in arrears. The dividends shall be payable at an annual rate of \$3.00 per share with payments made within the first ten days of each January, April, July, and October. Dividends may be paid in either cash or Common Stock. If the dividends are paid in Common Stock, the Common Stock will be valued at \$1.25 for purposes of determining the number of shares of Common Stock that will be issued in the dividend. Dividends are cumulative and dividends for any partial period that shares of Series A Preferred Stock are outstanding shall be prorated and paid upon conversion. The Series A Preferred Stock shall have a dividend preference to shares of Common Stock.

3. **Redemption Rights.** At no time does the Company have any right to redeem the shares of Series A Preferred Stock for cash.

4. **Liquidation Preference.** In the event of any liquidation, dissolution, or winding up of the affairs of the Company, whether voluntary or involuntary, the holders of shares of Series A Preferred Stock shall be entitled to receive out of the assets of the Company available for distribution to shareholders, an amount equal to \$100.00 per each share (the "Liquidation Preference"), prior to any distribution to the holders of Common Stock.

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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

5. **General Conversion Provisions.**

(a) Conversion by Holders; Approvals. Each holder of Series A Preferred Stock shall have the right, at their option, to convert, at any time and from time to time when the provision of Section 8 are not applicable, all or any portion of the Series A Preferred Stock (but in no event less than ten (10) shares of the Series A Preferred Stock, unless the holder owns less than ten (10) shares), into a number of shares of Common Stock equal to 100 shares of Common Stock for each share of Series A Preferred Stock owned and converted (the "Conversion Rate"). Notwithstanding anything in this Certificate to the contrary, holders of Series A Preferred Stock shall not be entitled to convert shares of Series A Preferred Stock until the converting holder has first received any applicable regulatory approvals.

(b) Delivery of Shares and Cash. The Company shall deliver to the holders of Series A Preferred Stock that have been converted, the shares of Common Stock and any amount of cash to which such holders are entitled, on or prior to the third business day immediately following the applicable Conversion Date. If fewer than all the shares of Series A Preferred Stock represented by any certificate are converted, a new certificate shall be issued representing the unconverted shares of Series A Preferred Stock without charge to the holder thereof.

(c) Accrued and Unpaid Dividends. Upon a conversion of any shares of Series A Preferred Stock the holders of such shares shall receive all accrued and unpaid dividends, including any pro rated dividend for any partial period, on such shares in cash out of funds legally available therefore or, at the option of the Company, in substitution in whole or in part for such cash, in fully paid and nonassessable shares of Common Stock legally available for such purpose determined by dividing the amount of the dividend by; the Liquidation Preference divided by the Conversion Rate. The issuance of any such shares of Common Stock in such amount shall constitute full payment of all accrued and unpaid dividends that would otherwise have been payable.

(d) Conversion Procedures by Holder. To effect a conversion, a holder of the Series A Preferred Stock shall complete and manually sign the conversion notice, if any, provided by the Company, deliver the completed conversion notice, deliver the certificated shares of Series A Preferred Stock to be converted to the Company, and if required, furnish appropriate endorsements and transfer documents.

(e) No Fractional Shares. No fractional shares of Common Stock shall be issued as a result of any conversion of shares of Series A Preferred Stock or the payment of accrued and unpaid dividends on the Series A Preferred Stock in the form of Common Stock. In lieu of any fractional share of Common Stock otherwise issuable in respect of any conversion or payment of accrued and unpaid dividends, the Company shall pay an amount in cash (computed to the nearest cent) equal to such fraction of a share of Common Stock multiplied by; the Liquidation Preference divided by the Conversion Rate. If more than one share of the Series A Preferred Stock is surrendered for

conversion at one time by or for the same holder, the number of full shares of Common Stock issuable upon conversion thereof, including in respect of accrued and unpaid dividends, shall be computed on the basis of the aggregate number of shares of the Series A Preferred Stock so surrendered.

6. Early Conversion.

(a) Conversion at the Option of the Company. Subject to Section 6(b), the Company shall have the right, at its option to convert, at any time and from time to time after March 31, 2013, and when the provision of Section 8 are not applicable, all or any portion of the Series A Preferred Stock (but in no event less than ten (10) shares of the Series A Preferred Stock, unless the holder owns less than ten (10) shares, at any time prior to the Mandatory Conversion Date ("Early Conversion"), into a number of Shares equal to the Conversion Rate multiplied by the number of shares of Series A Preferred Stock selected for conversion; provided, however, notwithstanding anything in this Certificate to the contrary, holders of Series A Preferred Stock shall not convert shares of Series A Preferred Stock until the converting holder has first received any applicable regulatory approvals. In addition to the number of Shares issuable upon Early Conversion, the holders of shares of Series A Preferred Stock subject to Early Conversion shall have the right to receive (in cash or shares of Common Stock at the option of the Company) any accrued but unpaid dividends on such shares including any dividend pro rated for a partial period up to, but excluding, the Early Conversion Date, (including, if applicable, dividends on such amount), regardless of whether any such dividends are actually declared determined by dividing the amount of the dividend by; the Liquidation Preference divided by the Conversion Rate.

(b) Early Conversion Procedures. In the event of an Early Conversion, the Company shall provide notice of such conversion to each holder of Series A Preferred Stock to be converted (such notice, a "Notice of Early Conversion"). Such Notice of Early Conversion shall be mailed at least 30 days and not more than 60 days before the date fixed for conversion (the "Early Conversion Date"). Each Notice of Early Conversion given to a holder shall state:

- (i) the Early Conversion Date;
- (ii) the number of shares of Series A Preferred Stock to be converted and, if less than all the shares held by such holder are to be converted, the number of such shares to be converted from such holder;
- (iii) the Conversion Rate and whether the Company will pay cash or issue shares of Common Stock in respect of accrued and unpaid dividends; and
- (iv) the place or places where certificates for shares of Series A Preferred Stock are to be surrendered for issuance of certificates representing Shares.

(c) Partial Conversion. If the Company elects to cause less than all the shares of the Series A Preferred Stock to be converted under this Section 7, the shares of Series A Preferred Stock to be converted shall be selected either pro rata or in such other manner as the Board of Directors or a duly authorized committee thereof may determine to be fair and equitable. Subject to the provisions hereof, the Board of Directors or a duly authorized committee thereof shall have full power and authority to prescribe the terms

and conditions upon which shares of Series A Preferred Stock shall be converted from time to time pursuant to an Early Conversion.

7. Mandatory Conversion.

(a) Mandatory Conversion. Each share of Series A Preferred Stock shall mandatorily convert (unless otherwise previously converted) on March 31, 2018 (the "Mandatory Conversion Date") into 100 shares of Common Stock; provided, however, notwithstanding anything in this Certificate to the contrary, (i) holders of Series A Preferred Stock shall not convert shares of Series A Preferred Stock into shares of Common Stock until the converting holder has first received any applicable regulatory approvals, if any.

(b) Mandatory Conversion Procedures. In the event of a mandatory conversion, the Company shall provide notice thereof to each holder of Series A Preferred Stock to be converted (such notice, a "Notice of Mandatory Conversion"). Such Notice of Mandatory Conversion shall be mailed at least 30 days and not more than 90 days before the Mandatory Conversion Date. Each Notice of Mandatory Conversion given to a holder shall state:

- (i) the Mandatory Conversion Date;
- (ii) that all outstanding shares of Series A Preferred Stock shall be converted on such date;
- (iii) the Conversion Rate and whether the Company will pay cash or issue shares of Common Stock at the Conversion Rate in respect of accrued and unpaid dividends; and
- (iv) the place or places where certificates for shares of Series A Preferred Stock are to be surrendered for issuance of certificates representing Shares.

8. Special Exchanges and Conversion Provisions. If at any time prior to March 31, 2013, the Company shall offer its Common Stock in a private or public offering to any person who does not hold shares of the Company's Series A Preferred Stock, then the holders of Series A Preferred Stock shall be permitted, at their sole option, to exchange Series A Preferred Stock shares, as if such shares were cash, with a value of \$100 per share plus any unpaid and accrued dividends, including any prorated dividend for any partial period, for shares of Common Stock at the same price and other terms of such offering, in addition to any right they may have to participate in such offering on a cash basis. Further, if prior to March 31, 2013, the Company shall enter into a definitive agreement to sell controlling interest in its shares, to merge with another corporation, or sell substantially all of its assets, holders of shares of Series A Preferred Stock shall convert immediately prior to the consummation of such transaction at a modified conversion ratio whereby the holder shall receive a number of shares of Common Stock equal to the per share book value of the Common Stock at the end of the calendar quarter immediately prior to the execution of the definitive agreement divided into the per share Liquidation Preference for each Preferred Share converted together with any unpaid and accrued dividends including any prorated dividend for any partial period. The number of shares of Common Stock received for dividends, if any, shall be determined by dividing amount of such dividends by; the Liquidation amount divided by the per share book value of the Common Stock at the end of the calendar quarter immediately prior to the execution of the definitive agreement.

9. **No Voting Rights.** Except as otherwise required by law, the holders of Series A Preferred Stock shall not be entitled to vote on any matters coming before the shareholders of the Company.

10. **Reacquired Shares.** Shares of Series A Preferred Stock converted or otherwise purchased or acquired by the Company shall be restored to the status of unauthorized and unissued shares of preferred stock without designation as to series.

11. **No Sinking Fund.** Shares of Series A Preferred Stock are not subject to the operation of a sinking fund.

IN WITNESS WHEREOF, Giant Holdings, Inc. has caused this Amended & Restated Certificate to be signed by Perry LaCaria, its Chief Executive Officer, this 24th day of June, 2011.

GIANT HOLDINGS INC.

By: _____


Perry LaCaria
Chief Executive Officer