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TALLAHASSEE, FLORIDA

AMEND  
KRC 9/4

ARTICLES OF AMENDMENT  
TO  
AMENDED ARTICLES OF INCORPORATION  
OF  
CALLMINER INC.  
ESTABLISHING A SERIES OF SHARES PURSUANT  
TO FLORIDA STATUTES 607.0602

FILED  
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SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

To: The Department of State of the State of Florida:

Pursuant to the provisions of Chapter 607.0602, Florida Statutes, the undersigned Corporation hereby submits the following information relating to the adoption by the Directors of the Corporation of an amendment of a series of shares and the establishment of the relative rights and preferences thereof:

1. The name of the Corporation is:  
  
CALLMINER INC.,  
a Florida corporation (the "Corporation").
2. The Certificate of Designation, Preference and Rights of Series A Preferred Stock of CallMiner Inc. ("Certificate of Designation"), is attached hereto and incorporated herein by reference.
3. The Certificate of Designation was duly adopted by unanimous consent of the Board of Directors of the Corporation effective August 19, 2003, as more particularly described in Article Second of the Certificate of Designation.

CALLMINER INC.,  
a Florida corporation

By: 

Kim C. Brown  
Secretary

Corporate Seal

**CERTIFICATE OF DESIGNATION,  
PREFERENCE AND RIGHTS OF SERIES A PREFERRED STOCK  
OF  
CallMiner Inc.**

The undersigned, being the President of CallMiner Inc., a Florida corporation (the "Corporation"), DOES HEREBY CERTIFY as follows:

FIRST: That pursuant to the Articles of Incorporation as amended duly filed with the Secretary of State of the State of Florida, the total number of shares which the Corporation may issue, as stated in Article IV thereof, consists of Ten Million (10,000,000) shares of common voting stock having no par value ("Common Stock"), and One Million Six Hundred Forty-three Thousand Three Hundred Eighty-Five (1,643,385) shares of preferred stock having no par value of \$.0001 per share ("Preferred Stock"), which Preferred Stock shall have such voting power, preferences, rights, terms and conditions as established by the Board of Directors from time to time.

SECOND: That pursuant to authority conferred upon the Board of Directors by Article IV of the Articles of Incorporation and Section 607.0602 of the Florida Business Corporation Act, the Board of Directors of the Corporation, effective March 13, 1997, duly adopted the following Resolutions, providing for the amendment to the provisions of the issuance of a series of Preferred Stock:

RESOLVED that, pursuant to authority vested in the Board of Directors by Article IV of the Articles of Incorporation of the Corporation, a series of Preferred Stock is hereby established, the distinctive designation of which shall be "Series A Preferred Stock" (such series being hereinafter called "Series A"), and the preferences and relative, participating, optional or other special rights of Series A, and the qualifications, limitations or restrictions thereof shall be as follows:

1. Certain Definitions. Unless the context otherwise requires, the terms defined in this paragraph 1 shall have, for all purposes of this written action, the meanings herein specified.
2. Common Stock. The term Common Stock shall mean all shares now or hereafter authorized of the Corporation's Common Stock, no par value, which has the right (subject always to prior rights of any class or Series of Preferred Stock) to participate in the distribution as to per share amount.
3. Dividend Rights. The holders of shares of Series A Preferred Stock shall be entitled to receive dividends equal to those paid on the Common Shares as declared by the Board of Directors as if the Series A Preferred Stock had been converted to Common Stock under the conversion formula set forth in Section 9 below.

4. Liquidation Preference. In the event of any liquidation, dissolution or winding up of the affairs of the Corporation, whether voluntary or involuntary, the holders of Series A Preferred Stock shall be entitled to receive a preference superior to the Common Stock in an amount equal to the Purchase Price for each share of Series A Stock plus all accrued but unpaid dividends on such Series A Stock. Then the Common Stockholders shall receive a like sum per share of money or property in distribution equal to the amount received per share by the Series A Stock on an as converted to Common Stock basis. Finally, the holders of the Preferred Stock shall participate with the holders of the Common Stock on an as converted to Common Stock basis in the distribution of all of the remaining proceeds available upon the consummation of a Liquidation Event.
5. Voting Rights. The holders of the Series A Preferred Stock shall have the right to vote the shares as if they had been converted to Common Stock in accordance with the conversion rights described in Section 9 below.
6. Reacquired Shares. Shares of Series A Preferred Stock purchased or otherwise acquired by the Corporation shall be restored to the status of authorized but unissued shares of Preferred Stock without designation as to series.
7. No Sinking Fund. Shares of Series A Preferred Stock are not subject to the operation of a sinking fund.
8. Majority Vote to Change Rights, Preferences, and Powers. So long as any shares of Series A Preferred Stock are outstanding, the Corporation shall not, without the affirmative vote at a meeting (the notice of which shall state the general character of the matters to be submitted thereat), or the written consent with or without a meeting of the holders of a majority of the then outstanding shares of Series A Preferred Stock:
  - (i) increase the authorized amount of Series A Preferred Stock; or authorize or create, or increase the authorized amount of, any additional class of stock ranking prior to or on a parity with the Series A Preferred Stock as to dividends or assets; or authorize or create, or increase the authorized amount of, any class of stock or obligations convertible into or evidencing the right to purchase any class of stock ranking prior to or on a parity with the Series A Preferred Stock as to dividends or assets; or
  - (ii) authorize or create, or increase the authorized amount of, any stock of the Corporation, which has the right to participate in the distribution of the assets and earnings of the Corporation without limit as to per share amount; or

- (iii) amend, alter or repeal any of the provisions of the Articles of Incorporation as amended or any of the rights, preferences or powers of the outstanding Series A Preferred Stock fixed herein or determined by the Board of Directors for any shares of Series A Preferred Stock as herein authorized; so as adversely to affect the rights, preferences or powers of the Series A Preferred Stock or its holders; or
- (iv) declare or pays any cash dividend or other distributions on the Company's Capital stock; or
- (v) effect the merger, acquisition, consolidation, reorganization or transfer of control of more than 50% of the voting or economic interest of the Company excepting any transaction that provides not less than a per share distribution of cash, property or securities valued at greater than or equal to four times the per share purchase price; or
- (vi) incur an indebtedness for borrowed money in excess of \$100,000;
- (vii) sell or otherwise transfers shares of a subsidiary.
- (viii) such other approval rights as set forth in Section 5.5 of the Series A Preferred Stock Purchase Agreement dated August \_\_, 2003, between the Corporation and the holders of the Series A Preferred Stock.
- (ix) amend or repeal any of the provisions of this paragraph.

9. Conversion Rights.

- a. Conversion Formula. The Series A Preferred Stock may be converted at the Holders option to Common Stock at an initial 1 to 1 ratio. Such ratio may be adjusted by agreement with the Corporation upon issuance to provide for anti-dilution protection. Reference is hereby made to Section 5.4 of the Series A Preferred Stock Purchase Agreement dated August \_\_, 2003 between the Corporation and holders of Series A Preferred Stock for a detailed description of the full ratchet anti-dilution rights granted to holders of the Series A Preferred Stock
- b. Fractional Shares. No fractional shares of Common Stock shall be issued upon conversion of Series A Preferred Stock. Shares of Common Stock issued for conversion will be rounded to the nearest whole number.

- c. Mechanics of Conversion. Before any holder of Series A Preferred Stock shall be entitled to convert the same into shares of Common Stock, he shall surrender the certificate or certificates therefor, duly endorsed, at the principal office of the Corporation or of any transfer agent for the Series A Preferred Stock, and shall give written notice to the Corporation at such office that he elects to convert the same and shall state therein the name or names in which he wishes the certificate or certificates for shares of Common Stock to be issued. The Corporation shall, as soon as practicable thereafter, issue and deliver at such office to such holder of Series A Preferred Stock, or to his nominee or nominees, a certificate or certificates for the number of shares of Common Stock to which he shall be entitled as aforesaid and all accrued unpaid cumulative dividends through the Conversion Date. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of shares of Series A Preferred Stock to be converted, and the person or persons entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder of holders or such share of Common Stock on such date (the "Conversion Date").
- d. Stock Splits, etc. If the number of shares of Common Stock outstanding at any time after the Effective Date of the Series A Preferred Stock is increased by a stock dividend payable in shares of Common Stock or by a subdivision or split-up of shares of Common Stock, then immediately after the record date fixed for the determination of holders of Common Stock entitled to receive such stock dividend or the effective date of such subdivision or split-up, as the case may be, the number of shares of Common Stock issuable upon conversion of the Series A Preferred Stock shall be appropriately adjusted by the Board of Directors of the Corporation so that the holder of any Series A Preferred Stock thereafter converted shall be entitled to receive the number of shares of Common Stock which he would have owned immediately following such action had such Series A Preferred Stock been converted immediately prior thereto.

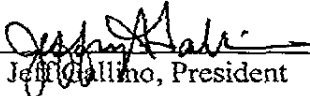
- e. Reverse Stock Splits, etc. If the number of shares of Common Stock outstanding at any time after the Effective Date of the Series A Preferred Stock is decreased by a reverse stock split, the number of shares of Common Stock issuable upon conversion of the Series A Preferred Stock shall be appropriately adjusted so that the holder of any Series A Preferred Stock thereafter converted shall be entitled to receive then umber of shares of common Stock which he would have owned immediately following such action had such Series A Preferred Stock been converted immediately prior thereto.
- f. Reorganizations, etc. In case of any capital reorganization of the Corporation, or of any reclassification of the Common Stock, or in case of the consolidation of the Corporation with or the merger of the Corporation with or into any other person, firm or corporation, or of the sale, lease or other transfer of all or substantially all of the assets of the Corporation to any other person, firm or corporation, each share of Series A Preferred Stock shall after such capital reorganization, reclassification, consolidation, merger, sale, lease or other transfer be convertible into the number of shares of stock or other securities or property to which the Common Stock issuable (at the time of such capital reorganization, reclassification, consolidation, merger, sale, lease or other transfer) upon conversion of such Series A Preferred Stock would have been entitled upon such capital reorganization, reclassification, consolidation, merger, sale, lease or other transfer; and in any such case, if necessary, the provisions set forth herein with respect to the rights and interests thereafter of the holders of the Series A Preferred Stock shall be appropriately adjusted so as to be applicable, as nearly as may reasonably be, to any shares of stock or other securities or property thereafter deliverable on the conversion of the Series A Preferred Stock.
- g. Notice of Adjustments. Whenever the number of shares of Common Stock issuable upon conversion of the Series A Preferred Stock shall be adjusted as provided herein, the Corporation shall forthwith file, at the office of any conversion agent for the Series A Preferred Stock and at the principal office of the Corporation, a statement showing in detail the facts requirement such adjustment and the number of shares of Common Stock issuable upon conversion of the Series A Preferred Stock after such adjustment, and the Corporation shall also cause a copy of such statement to be sent by mail, first class postage prepaid, to each holder of Series A Preferred Stock at its address appearing on the Corporation's records.

- h. Treasury Stock. For the purposes of paragraph 9, the sale or other disposition of any Common Stock of the Corporation theretofore held in its treasury shall be deemed to be an issuance thereof.
- i. Taxes. The Corporation shall pay all documentary, stamp, transfer or other transactional taxes attributable to the issuance or delivery of shares of Common Stock upon conversion of any Series A Preferred Stock; provided that the Corporation shall not be required to pay any taxes which may be payable in respect of any transfer involved in the issuance or delivery of any certificate for such Series A Preferred Stock in a name other than that of the holder of the Series A Preferred Stock in respect of which such shares are being issued.
- j. Reserve Shares. The Corporation shall reserve at all times so long as any Series A Preferred Stock remains outstanding, free from preemptive rights, out of either or both of its treasury stock or its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of the Series A Preferred Stock, sufficient shares of Common Stock to provide for the conversion of all outstanding Series A Preferred Stock.
- k. Governmental Approvals. If any shares of Common Stock to be reserved for the purpose of conversion of Series A Preferred Stock require registration with or approval of any governmental authority under any Federal or state law before such shares may be validly issued or delivered upon conversion, then the Corporation will in good faith and as expeditiously as possible endeavor to secure such registration or approval, as the case may be. If, and so long as, any Common Stock into which the Series A Preferred Stock is then convertible is listed on any national securities exchange, the Corporation will, if permitted by the rules of such exchange, list and keep listed on such exchange, upon official notice of issuance, all shares of such Common Stock issuable upon conversion.
- l. Valid Issue. All shares of Common Stock which may be issued upon conversion of the Series A Preferred Stock will upon issuance by the Corporation, be duly and validly issued, fully paid and nonassessable and free from all taxes, liens and charges with respect to the issuance thereof and the Corporation shall take no action which will cause a contrary result.




- m. Mandatory Conversion. The Series A Preferred Stock will automatically be converted into common stock at the then applicable conversion rate and all special rights or obligations extinguished excepting the rights set forth any separate Investor's Rights Agreement, in the event of an underwritten public offering of Common Stock of the Company at a public offering price per share where the market capitalization of the Company is equal to or greater than twenty-five million dollars (\$25,000,000) and for a total offering of not less than five million dollars (\$5,000,000) .
10. Headings of Subdivisions. The headings of the various subdivisions hereof are for convenience of reference only and shall not affect the interpretation of any of the provisions hereto.
11. Severability of Provisions. If any right, preference or limitation of the Series A Preferred Stock set forth in this resolution (as such resolution may be amended from time to time) is invalid, unlawful or incapable of being enforced by reason of any rule of law or public policy, all other rights, preferences and limitations set forth in this resolution (as so amended) which can be given effect without the invalid, unlawful or unenforceable right, preference or limitation shall, nevertheless, remain in full force and effect, and no right, preference or limitation herein set forth shall be deemed dependent upon any other such right, preference or limitation unless so expressed herein.
12. Remedies. The holders of the Series A Preferred Stock shall be granted the rights of specific performance, injunctive relief and any other remedies that may be otherwise available at law or in equity to enforce the provisions of this Certificate of Designation. The provisions of this Certificate of Designation are to be literally construed in interpreting the preferences granted to the Series A Preferred Stock hereunder.
13. Par Value. The stated value of the Series A Preferred Stock shall be no par share for legal purposes.
14. Authorized Shares of Series A Preferred Stock. The number of shares which shall constitute Series A Preferred Stock shall be One Million Six Hundred Forty-three Thousand Three Hundred Eighty-Five (1,643,385).
15. No Other Rights. The shares of Series A Preferred Stock shall not have any relative powers, preferences and rights, nor any qualifications, limitations or restrictions thereof, other than as set forth herein, the Series A Preferred Stock Purchase Agreement dated August \_\_, 2003 between the Corporation and holders of Series A Preferred Stock, to which reference is hereby made or in the Articles of Incorporation of the Corporation.

IN WITNESS WHEREOF, the undersigned, being the President and Secretary of the Corporation have hereunto set their hands as of the \_\_\_\_ day of August, 2003, and they hereby affirms that the foregoing Designation is the act and deed of the Corporation and that the facts stated herein are true.

  
\_\_\_\_\_  
Jeff Gallino, President

Attest:

  
\_\_\_\_\_  
Kim C. Brown, Secretary

MTC/ej/299347