

P070000 83764

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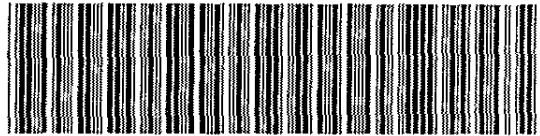
(Business Entity Name)

(Document Number)

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DIVISION OF CORPORATIONS
TALLAHASSEE, FLORIDA

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TALLAHASSEE, FLORIDA



UCC FILING & SEARCH SERVICES, INC.
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September 12, 2007

CORPORATION NAME (S) AND DOCUMENT NUMBER (S):

Consumer Health Technologies, Inc.

Filing Evidence

☐ Plain/Confirmation Copy

☒ Certified Copy

Retrieval Request

☐ Photocopy

☐ Certified Copy

Type of Document

☐ Certificate of Status

☐ Certificate of Good Standing

☐ Articles Only

☐ All Charter Documents to Include
 Articles & Amendments

☐ Fictitious Name Certificate

☐ Other

NEW FILINGS	
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<input type="checkbox"/>	Non Profit
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<input type="checkbox"/>	Other

AMENDMENTS	
<input checked="" type="checkbox"/>	Amendment
<input type="checkbox"/>	Resignation of RA Officer/Director
<input type="checkbox"/>	Change of Registered Agent
<input type="checkbox"/>	Dissolution/Withdrawal
<input type="checkbox"/>	Merger

OTHER FILINGS	
<input type="checkbox"/>	Annual Reports
<input type="checkbox"/>	Fictitious Name
<input type="checkbox"/>	Name Reservation
<input type="checkbox"/>	Reinstatement

REGISTRATION/QUALIFICATION	
<input type="checkbox"/>	Foreign
<input type="checkbox"/>	Limited Liability
<input type="checkbox"/>	Reinstatement
<input type="checkbox"/>	Trademark
<input type="checkbox"/>	Other

COVER LETTER

TO: Amendment Section
Division of Corporations

NAME OF CORPORATION: Consumer Health Technologies, Inc

DOCUMENT NUMBER: P07000083764

The enclosed *Articles of Amendment* and fee are submitted for filing.

Please return all correspondence concerning this matter to the following:

Scott J. Leitten
(Name of Contact Person)

Block & Calucci, PA
(Firm/ Company)

1001 N. US Hwy One Suite 400
(Address)

Jupiter FL 33477
(City/ State and Zip Code)

For further information concerning this matter, please call:

Scott Leitten at (561) 747-0110
(Name of Contact Person) (Area Code & Daytime Telephone Number)

Enclosed is a check for the following amount:

- ☒ \$35 Filing Fee ☐ \$43.75 Filing Fee & Certificate of Status ☐ \$43.75 Filing Fee & Certified Copy (Additional copy is enclosed) ☐ \$52.50 Filing Fee Certificate of Status Certified Copy (Additional Copy is enclosed)

Mailing Address

Amendment Section
Division of Corporations
P.O. Box 6327
Tallahassee, FL 32314

Street Address

Amendment Section
Division of Corporations
Clifton Building
2661 Executive Center Circle
Tallahassee, FL 32301

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TALLAHASSEE, FLORIDA

CONSUMER HEALTH TECHNOLOGIES, INC.

ARTICLES OF AMENDMENT

Consumer Health Technologies, Inc., having its principal office in Fort Lauderdale, Broward County, Florida (hereinafter called the "Corporation"), hereby certifies to the Florida Department of State (the "Department") that:

FIRST: The Articles of Incorporation of the Corporation are hereby amended by deleting Article FOURTH and by substituting in lieu thereof the following:

FOURTH: The total number of shares of all classes of stock which the Corporation has authority to issue is fifty million (50,000,000) shares, of which thirty million (30,000,000) shares shall be Common Stock, par value \$0.0001 per share (the "Common Stock"), and twenty million (20,000,000) shares shall be Preferred Stock (the "Preferred Stock"), of which 558,000 shares shall be designated as Series A Preferred Stock, par value \$1.00 per share (the "Series A Preferred Stock"), 120,000 shares shall be designated as Series A-1 Preferred Stock, par value \$10.00 per share (the "Series A-1 Preferred Stock"), and 100,000 shares shall be designated as Series A-2 Preferred Stock, par value \$10.00 per share (the "Series A-2 Preferred Stock", and, together with the Series A Preferred Stock and the Series A-1 Preferred Stock, the "A Preferred Stock" and, together with the Series A-1 Preferred Stock, the "Series A-1/A-2 Preferred Stock"), with the balance of the Preferred Stock, comprised of 19,222,000 shares, being "undesigned" Preferred Stock, par value \$0.0001 per share.

The shares may be issued by the Corporation from time to time as approved by the Board of Directors of the Corporation without the approval of the stockholders except as otherwise provided in this Article FOURTH or the rules of a national securities exchange or national market system, if applicable. The consideration for the issuance of the shares shall be paid to or received by the Corporation in full before their issuance and shall not be less than the par value per share.

The holders of the Common Stock are entitled at all times to one vote for each share held and to such dividends as the Board of Directors may in their discretion from time to time legally declare, subject, however, to the voting and dividend rights, if any, of the holders of the Preferred Stock then outstanding. In the event of any liquidation, dissolution or winding up of the Corporation, the remaining assets of the Corporation after the payment of all debts and necessary expenses, subject, however, to the rights of all holders of the Preferred Stock then outstanding, shall be distributed among the holders of

the Common Stock pro rata in accordance with their respective holdings. The Common Stock is subject to all of the terms and provisions of the Preferred Stock as hereinafter provided. No holder of Common Stock shall have any preferential or preemptive right to acquire additional shares of stock of the Corporation. There shall be no cumulative voting.

The board of directors is authorized, subject to any limitations herein or prescribed by law, to provide for the issuance of shares of Preferred Stock in series, and by filing a certificate pursuant to the applicable law of the State of Florida, to establish from time to time the number of shares to be included in each such series, and to fix the designation, powers, preferences, and rights of the shares of each such series and any qualifications, limitations or restrictions thereof.

Except as otherwise provided in the Articles of Incorporation (the "Articles of Incorporation"), the number of authorized shares of Common Stock and Preferred Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority in voting power of the stock of the Corporation entitled to vote thereon irrespective of the provisions of Section 607.1004 of the Florida Business Corporation Act, as amended, or any successor provision thereto, and no vote of the holders of the Common Stock or the Preferred Stock voting separately as a class shall be required therefore.

I. SERIES A PREFERRED STOCK

1. *Description of Amount and Stated Value.* The Series A Preferred Stock is issuable solely in whole shares and shall entitle the holder thereof to exercise the voting rights, to participate in distributions and to have the benefits of all other rights of holders of the Series A Preferred Stock as set forth herein. The number of shares which shall constitute such series shall be 558,000 shares, par value \$1.00 per share. The Series A Preferred Stock shall rank on parity with the Series A-1 Preferred Stock and the Series A-2 Preferred Stock and shall rank senior to all other shares of the Corporation with respect to liquidation rights. The issuance price of Series A Preferred Stock shall be \$1.00 per share (the "Original Series A Purchase Price") (such amount shall be adjusted appropriately for stock splits, stock dividends, recapitalizations and the like with respect to the Series A Preferred Stock). The issue date of the first share of Series A Preferred Stock by the Corporation shall hereinafter be referred to as the "Original Series A Issue Date".

2. *No Dividends.* No dividend shall be payable on the Series A Preferred Stock.

3. *Rights on Liquidation, Dissolution, or Winding up.*

3.1 In the event of any liquidation, dissolution or winding up of the Corporation, the holders of shares of the Series A Preferred Stock then issued and outstanding shall be entitled to be paid out of the assets of the Corporation available for distribution to its stockholders, whether from capital, surplus or earnings, before any payment shall be made to the holders of shares of the Common Stock or of shares of any other class or series of stock of the Corporation other than the Series A-1 Preferred Stock and the Series A-2 Preferred Stock, an amount equal to the greater of (a) the Market Value (as determined pursuant to Section 4.3, below) of the as-if-converted to Common Stock of the Series A Preferred Stock without regard to minority or illiquidity discounts, or (b) two (2) times the Original Series A Purchase Price until September 10, 2008 and thereafter an amount equal to three (3) times the Original Series A Purchase Price (the "Series A Liquidation Preference"). If, upon any liquidation, dissolution or winding up of the Corporation, the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of shares of the A Preferred Stock the full amounts to which they shall respectively be entitled, the holders of shares of the A Preferred Stock shall receive all of the assets of the Corporation available for distribution and each such holder of shares of the A Preferred Stock shall share ratably in any distribution in the proportion which the amount payable to each such holder in respect of the shares of A Preferred Stock owned by him bears to the aggregate of all amounts payable to the holders of the A Preferred Stock. After payment shall have been made to the holders of shares of the A Preferred Stock of the full amount to which they shall be entitled, as aforesaid, the remaining assets and funds of the Corporation available for distribution to its stockholders shall be distributed among the holders of shares of Common Stock then outstanding. The following events ("Liquidation Events") shall be considered a liquidation under this Section:

3.1.1 any consolidation or merger of the Corporation or its subsidiaries with or into any other corporation or other entity or person, or any other corporate reorganization, in which the stockholders of the Corporation immediately prior to such consolidation, merger or reorganization own less than a majority of the Corporation's voting power immediately after such consolidation, merger or reorganization, or any transaction or series of related transactions to which the Corporation is or its stockholders are a party in which 50% or more of the Corporation's outstanding voting power is transferred (an "Acquisition"); or

3.1.2 a sale, lease, license or other disposition of all or substantially all of the assets of the Corporation or its subsidiaries (an "Asset Transfer" and, together with an Acquisition, a "Liquidation Event").

3.2 In connection with any Liquidation Event which involves the payment of cash and non-cash consideration, the holders of Series A Preferred Stock shall, on the effective date of such Liquidation Event, be paid the amounts due to such holders in respect of their Series A Preferred Stock under Section 3.1 in the same

combination and proportion of cash and such non-cash consideration as is payable to the holders of Common Stock, except as may be otherwise elected by the holders of a majority of the outstanding shares of Series A Preferred Stock. Any securities or other non-cash consideration to be delivered to the holders of the Series A Preferred Stock upon any Liquidation Event shall be valued as follows: (a) if traded on a national securities exchange or the NASDAQ National Market System, the value shall be deemed to be the average of the closing prices of the securities on such exchange or system over the twenty (20) trading days preceding the consummation of such Liquidation Event or (b) if there is no active public market, the value shall be the fair market value thereof, as determined in good faith by resolution of the Board of Directors of the Corporation and the holders of a majority of the outstanding shares of Series A Preferred Stock.

3.3 Prior to the occurrence of any Liquidation Event, the Corporation will furnish each holder of shares of Series A Preferred Stock notice in accordance with Section 11 hereof, together with a certificate prepared by the chief financial officer of the Corporation describing in reasonable detail the facts of such Liquidation Event, stating in reasonable detail the amount per share of Series A Preferred Stock each holder of Series A Preferred Stock would receive pursuant to the provisions of Section 3.1 hereof and stating in reasonable detail the facts upon which such amount was determined and describing in reasonable detail all material terms of such Liquidation Event, including, without limitation, the consideration to be delivered in connection with such Liquidation Event, the valuation of the Corporation at the time of such Liquidation Event and the identities of the parties to the Liquidation Event.

4. *Redemption.*

4.1. At any time after the fifth anniversary of the Original Series A Issue Date, the holders in interest of at least two-thirds of the then outstanding Series A-1/A-2 Preferred Stock, voting together as a single class, may notify the Corporation in writing (the "Holder Redemption Notice") of their election to require the Corporation to redeem their shares of Series A-1/A-2 Preferred Stock.

4.2. Promptly following receipt of the Holder Redemption Notice, the Corporation shall notify the holders of A Preferred Stock of their right to have their shares redeemed. The electing holders of A Preferred Stock (the "A Redeeming Holders" and to the extent such holders are holders of Series A Preferred Stock, the "Series A Redeeming Holders") may elect to sell to the Corporation all or a portion of their shares of A Preferred Stock by delivering to the Corporation written notice within thirty (30) days after the receipt of the foregoing notice from the Corporation, which shall specify the number of such shares of A Preferred Stock to be redeemed (the "A Redemption Shares," and to the extent such A Preferred Stock is Series A Preferred Stock, the "Series A Redemption Shares"). The closing date (the "A

Redemption Date") shall be fixed by the Corporation and shall not be less than 10 nor more than 30 days after the receipt by the Corporation of the foregoing notice from the holder of A Preferred Stock. The redemption price for each Series A Redemption Share shall be the greater of (i) the Series A Liquidation Preference or (ii) the Market Value (as determined below) of a share of the Series A Preferred Stock (such sum being hereinafter referred to as the "Series A Redemption Price").

4.3. The Market Value of the as-if-converted Common Stock of the Series A Redemption Shares shall be determined as follows:

4.3.1. if the securities are then traded on a national securities exchange, the NASDAQ National Market System (or a similar national quotation system) or the NASDAQ SmallCap Market, then the value shall be deemed to be the average of the closing prices of the securities on such exchange or system over the thirty (30) day period ending three (3) days prior to the A Redemption Date;

4.3.2. if actively traded over-the-counter, then the value shall be deemed to be the average of the closing bid prices over the thirty (30) day period ending three (3) days prior to the A Redemption Date; or

4.3.3. if there is no active public market, the Corporation and the Series A-1/A-2 Redeeming Holders shall attempt in good faith to agree on the Market Value. Any agreement reached by such persons shall be final and binding on all parties hereto. If such persons are unable to reach such agreement within thirty (30) days after the giving of any Holder Redemption Notice, a disinterested appraisal firm that is a member of a recognized professional association reasonably acceptable to the Corporation and the holders of at least a majority of the Series A-1/A-2 Redeeming Holders shall determine Market Value as set forth below. If the parties are unable to agree on an appraisal firm within ten (10) days after the delivery of the Holder Redemption Notice, a firm shall be selected by lot from the top-tier investment banking firms, after the Corporation and the Series A-1/A-2 Redeeming Holders have each eliminated one such firm (the "*Series A-1/A-2 Appraisal Firm*"). The Series A-1/A-2 Appraisal Firm shall then make a determination of the Market Value, and, using such determination of Market Value, shall calculate the Market Value of one (1) share of Series A Preferred Stock (the "*Series A Appraised Price*"). The selection and determination of the Series A-1/A-2 Appraisal Firm shall be final and binding upon all parties. In the event that the Series A Appraised Price is greater than the Market Value, as first determined by the Corporation, by ten percent (10%) or more, then the Corporation shall pay all costs of the Series A-1/A-2 Appraisal Firm. In the event that the Series A Appraised Price is greater than the Market Value, as first determined by the Corporation, by less than ten percent (10%), then the expenses of the Series A-1/A-2 Appraisal Firm shall be borne equally by the Corporation and the A Redeeming Holders.

4.4. For purposes of Section 4.3.3 above, "*Market Value*" means the fair market value of the Corporation's entire common equity on a fully-diluted basis (assuming the exercise of all warrants, options or other rights to acquire Common Stock and the payment of the exercise price therefore, and the conversion of all securities convertible directly or indirectly into Common Stock) determined on a going concern basis as between a willing buyer and a willing seller and taking into account all relevant factors determinative of value but not taking into account discounts for minority status or lack of liquidity.

4.5. The Corporation shall purchase, and the A Redeeming Holders shall sell, the A Redemption Shares, in three (3) equal installments (each an "*A Redemption Payment*"), the first to occur on the A Redemption Date, the second to occur six (6) months from the A Redemption Date and the third to occur twelve (12) months from the A Redemption Date (each, an "*A Redemption Closing*"). The Corporation shall notify in writing all the holders in interest of the then outstanding A Preferred Stock of the date and place of each A Redemption Closing at least seven (7) days prior to such A Redemption Closing.

4.6. At each A Redemption Closing, the A Redeeming Holders shall deliver to the Corporation certificates representing one-third (1/3) of the A Redemption Shares held by such A Redeeming Holder. If less than all of the shares represented by such certificate are redeemed, then the Corporation shall promptly issue a new certificate representing the unredeemed shares. The Corporation shall deliver to each Series A Redeeming Holder the Series A Redemption Price for each share of Series A Preferred Stock to be sold to the Corporation at each A Redemption Closing in cash (by cashier's or certified check or by wire transfer of immediately available funds to an account designated by such holder). If on any date on which shares of A Preferred Stock are to be redeemed, funds of the Corporation legally available therefore shall be insufficient to redeem all of the A Redemption Shares required to be redeemed as provided for herein on such date, funds to the extent legally available to redeem such A Redemption Shares shall be used for such purpose and the Corporation shall effect such redemption pro rata according to the number of A Redemption Shares then held by each A Redeeming Holder. At any time thereafter when additional funds of the Corporation are legally available for the redemption of such A Redemption Shares, such funds will immediately be used to redeem the balance of the shares which the Corporation has become obligated to redeem on such A Redemption Date but which it has not redeemed at, with respect to the Series A Redemption Shares, the Series A Redemption Price as provided in Section 4.7 below. All additional funds will be distributed prorata among all A Redeeming Shares. Any shares of Series A Preferred Stock which have not been redeemed shall remain outstanding and entitled to all the rights and preferences provided herein.

4.7. If, on any date on which shares of A Preferred Stock are to be redeemed, funds of the Corporation legally available therefore shall be insufficient to redeem all of the A Redemption Shares required to be redeemed as provided for herein on such date or (b) the Corporation otherwise fails to make an A Redemption Payment in full pursuant to Section 4.6 above (each, a "Default"), the shares of A Preferred Stock not redeemed shall remain outstanding and entitled to all the rights and preferences provided herein. In addition, upon a Default, (i) notwithstanding any other provision of the Articles of Incorporation, the size of the Board of Directors shall immediately be increased such that the number of newly created directorships plus the number of representatives of the Series A-1/ A-2 Preferred Stock on the Board of Directors equals a majority of the Board of Directors and (ii) the holders in interest of at least a majority of the then outstanding Series A-1/ A-2 Preferred Stock, voting together as a single class, shall have the right to (in their sole discretion) elect such number of additional persons to the Board of Directors such that a majority of the directors are representatives of the A Preferred Stock.

4.8. Whenever under the provisions of Section 4.7 the right shall have accrued to the holders of the Series A-1/ A-2 Preferred Stock to elect a majority of the directors as specified herein, the Board of Directors shall immediately call a special meeting of the stockholders for the election of directors, to be held upon not less than ten (10) nor more than twenty (20) days' notice to such stockholders. If such notice of meeting is not given within the time as herein required, the holders in interest of at least a majority of the then outstanding Series A-1/ A-2 Preferred Stock may call such a meeting and for such purpose shall have access to the stock books and records of the Corporation. At any meeting so called or at any other meeting held while the holders of the Series A-1/ A-2 Preferred Stock shall have the voting power provided in Section 4.7, the holders of at least a majority of the then outstanding shares of Series A-1/ A-2 Preferred Stock present in person or by proxy or voting by written consent shall be sufficient to constitute a quorum for the election of directors as herein provided. In the case of any vacancy in the office of a director occurring among the directors elected by the holders of Series A-1/ A-2 Preferred Stock, the remaining directors so elected by the holders of the Series A-1/ A-2 Preferred Stock may by affirmative vote of a majority thereof (or the remaining director so elected if there be but one (1)) elect a successor or successors to hold office for the unexpired term of the director or directors whose place or places shall be vacant, provided, that if there are no remaining directors so elected, the vacancies may be filled by the affirmative vote of the holders of at least a majority of the then outstanding shares of Series A-1/ A-2 Preferred Stock, voting together as a single class, given either at a special meeting of such stockholders duly called for that purpose or pursuant to a written consent of such stockholders. Any directors who shall have been elected by the holders of the Series A-1/ A-2 Preferred Stock pursuant to this Section 4.8 may be removed, with or without cause, during the aforesaid term of office by the affirmative vote of at least a majority of the then outstanding shares of Series A-1/ A-2 Preferred Stock, voting together as a single class, given either at a special meeting

of stockholders duly called for that purpose or pursuant to a written consent of stockholders, and any vacancy thereby created may be filled by the holders of Series A-1/A-2 Preferred Stock, voting together as a single class represented at such meeting or pursuant to such written consent.

4.9. For the purpose of determining whether funds are legally available for redemption of the A Redemption Shares as provided herein, the Corporation shall, to the extent permitted by law, value its assets at the highest amount determined in good faith by the Corporation's independent accounting firm. From and after the A Redemption Date, unless there shall have been a Default, all rights of the Series A Redeeming Holders (except the right to receive the Series A Redemption Price) shall cease with respect to the shares to be redeemed on such A Redemption Date, and such shares shall not thereafter be transferred on the books of the Corporation or be deemed to be outstanding for any purpose whatsoever.

5. *Voting.* Each holder of Series A Preferred Stock shall be entitled to the number of votes equal to the number of shares of Common Stock into which the shares of Series A Preferred Stock held of record by such holder are convertible (as adjusted from time to time pursuant to Section 8 and Section 9.1 hereof), at each meeting of stockholders of the Corporation (and written actions of stockholders in lieu of meetings) with respect to any and all matters presented to the stockholders of the Corporation for their action or consideration. Except as provided by law and by other parts of the Articles of Incorporation, the holders of Series A Preferred Stock shall vote, when entitled hereunder, together with the holders of Series A-1 Preferred Stock, the Series A-2 Preferred Stock and the Common Stock as a single class. To the extent the Series A Preferred Stock or Series A-1 Preferred Stock or Series A-2 Preferred Stock is entitled to more or less than 1 vote for any share, on any matter, every reference in the Articles of Incorporation to a majority or other proportion of stock, voting stock, or shares shall refer to such majority or other proportion of the votes of such stock, voting stock or shares.

6. *Conversion*

6.1. *Conversion by Series A Preferred Stockholders.*

6.1.1. The holder of any shares of the Series A Preferred Stock shall have the right, at such holder's option except as provided below, at any time and from time to time to convert all or any number of such shares of Series A Preferred Stock into such number of fully paid and nonassessable shares of Common Stock as shall be provided herein.

6.1.2. The holder of any shares of Series A Preferred Stock may exercise the conversion right provided in this Section 6.1 by giving written notice

(the "Series A Conversion Notice") to the Corporation stating the number of shares of Series A Preferred Stock to be converted (the "Series A Conversion Shares"), the name or names in which the stock certificate or stock certificates for the shares of Common Stock are to be issued and the address to which such certificates shall be delivered. The Series A Conversion Notice shall be accompanied by the stock certificate or stock certificates representing the Series A Conversion Shares, duly endorsed to the Corporation. The number of shares of Common Stock that shall be issuable upon conversion of the Series A Conversion Shares shall equal the Original Series A Purchase Price for the Series A Conversion Shares divided by the Series A Conversion Price in effect at the time of conversion, as such Series A Conversion Price may have been adjusted pursuant to Sections 8 and 9.1 hereof.

6.1.3. Conversion shall be deemed to have been effected on the date the Series A Conversion Notice is given (the "Series A Conversion Date"). Within 10 business days after receipt of the Series A Conversion Notice, the Corporation shall issue and deliver by hand against a signed receipt therefore or by United States registered mail, return receipt requested, to the address designated by the holder of the Series A Conversion Shares in the Series A Conversion Notice, a stock certificate or stock certificates of the Corporation representing the number of shares of Common Stock to which such holder is entitled. In the event that only a portion of the number of shares of Series A Preferred Stock represented by a stock certificate surrendered for conversion shall be Series A Conversion Shares, the Corporation shall issue and deliver in the manner aforesaid to the holder of the stock certificate so surrendered for conversion, at the expense of the Corporation, a new stock certificate for the number of unconverted shares of Series A Preferred Stock.

6.2. Automatic Conversion Upon Qualified Public Offering.

6.2.1. If the Corporation shall consummate a Qualified Public Offering (as hereinafter defined), upon the date of the declaration or order of effectiveness (the "Effective Date") of such Qualified Public Offering, all, but not less than all, of the outstanding shares of the Series A Preferred Stock shall automatically convert into such number of fully paid and nonassessable shares of Common Stock as shall be equal to the Original Series A Purchase Price for the Series A Preferred Stock issued and outstanding on the day immediately preceding the Effective Date divided by the Series A Conversion Price in effect at the close of business on the day immediately preceding the Effective Date, as such Series A Conversion Price may have been adjusted pursuant to Sections 8 and 9.1 hereof, without any further action by the holders of such shares and whether or not the certificates representing such shares of Series A Preferred Stock are surrendered to the Corporation or its transfer agent. On the Effective Date, all rights with respect to the shares of Series A Preferred Stock so converted shall terminate, except any of the rights of the holders thereof upon surrender of their certificate or certificates therefore or delivery of an Affidavit of Loss thereof to receive

certificates for the number of shares of Common Stock into which such shares of Series A Preferred Stock have been converted.

6.2.2. The term "Qualified Public Offering" shall mean any offering by the Corporation of shares of Common Stock (whether for the account of the Corporation or for the account of one or more shareholders of the Corporation) pursuant to a registration effected by preparing and filing a registration statement in compliance with the Securities Act of 1933 (the "Act") and the declaration or ordering of effectiveness of such registration statement, other than a registration on Form S-1 or S-8 relating solely to employee stock option or purchase plans or on Form S-14 relating solely to an offering under Rule 145 promulgated under the Act; provided, however, that the shares of Common Stock offered pursuant to such offering shall be offered for a price per share equal to or greater than \$6.00 per share (appropriately adjusted for subdivisions and combinations of shares of Common Stock and prior to underwriting commissions and expenses) and aggregate gross proceeds of not less than \$20,000,000.

6.2.3. Within 10 business days after the Effective Date, the Corporation shall issue and deliver by hand against a signed receipt therefore or by United States registered mail, return receipt requested, to the holder of the shares of the Series A Preferred Stock so converted a stock certificate or stock certificates of the Corporation representing the number of shares of Common Stock to which such holder is entitled.

6.3 *Automatic Conversion Upon Election of Holders of Majority of Outstanding Shares of Series A-1/A-2 Preferred Stock.*

6.3.1 If the holders of at least a majority of the then outstanding shares of Series A-1/A-2 Preferred Stock elect in writing to convert their shares of Series A-1/A-2 Preferred Stock into Common Stock, then upon the date specified by the holders of Series A-1/A-2 Preferred Stock in such written election (the "Voluntary Group A Preferred Conversion Date"), all, but not less than all, of the outstanding shares of the Series A Preferred Stock shall automatically convert into such number of fully paid and nonassessable shares of Common Stock as shall be equal to the Original Series A Purchase Price for the Series A Preferred Stock issued and outstanding on the day immediately preceding the Voluntary Group A Preferred Conversion Date divided by the Series A Conversion Price in effect at the close of business on the day immediately preceding the Voluntary Group A Preferred Conversion Date, as such Series A Conversion Price may have been adjusted pursuant to Sections 8 and 9.1 hereof, without any further action by the holders of such shares and whether or not the certificates representing such shares of Series A Preferred Stock are surrendered to the Corporation or its transfer agent. On the Voluntary Group A Preferred Conversion Date, all rights with respect to the shares of Series A Preferred Stock so converted shall terminate, except any of the rights of the holders thereof upon surrender of their certificate or certificates therefore or delivery of an Affidavit of Loss

thereof to receive certificates for the number of shares of Common Stock into which such shares of Series A Preferred Stock have been converted.

6.3.2 Within 10 business days after the Voluntary Group A Preferred Conversion Date, the Corporation shall issue and deliver by hand against a signed receipt therefore or by United States registered mail, return receipt requested, to the holder of the shares of the Series A Preferred Stock so converted a stock certificate or stock certificates of the Corporation representing the number of shares of Common Stock to which such holder is entitled.

6.4 *Fractional Shares.* The Corporation shall not be obligated to deliver to any holder of shares of a series of Series A Preferred Stock any fractional share of Common Stock issuable upon any conversion of such shares (after aggregating all shares of Common Stock into which all shares of Series A Preferred Stock held by each holder could be converted), but in lieu thereof may make a cash payment in respect thereof in any manner permitted by law.

6.5. *Other Applicable Sections.* The provisions of Sections 8 and 9 of this Article shall be applicable to the conversion rights provided in this Section 6.

7. *Preemptive Rights.* The holders of the shares of Series A Preferred Stock shall have no common law preemptive rights.

8. *Series A Conversion Price.*

8.1. The initial Series A Conversion Price at which shares of Common Stock shall be deliverable upon conversion of Series A Preferred Stock without payment of additional consideration by the holder thereof (the "Series A Conversion Price") shall be \$0.10, such that each share of Series A Preferred Stock shall initially be convertible into ten (10) shares of Common Stock. The Series A Conversion Price shall be subject to adjustment in accordance with and at the times provided in this Section 8 and Section 9.1.

8.2. *Adjustments to Series A Conversion Price for Diluting Issues:*

8.2.1. *Special Definitions.* For purposes of this Section 8.2, the following definitions shall apply:

8.2.1.1. *"Option"* shall mean rights, options or warrants to subscribe for, purchase or otherwise acquire Common Stock or Convertible Securities (as defined below) or restricted stock, excluding options granted to or shares of restricted stock acquired by employees, directors or consultants of the Corporation pursuant to an option plan or other compensation arrangement adopted by the Board

of Directors providing for the authorization and reservation of up to 747,500 shares of Common Stock (which number shall include the number of shares or shares subject to options outstanding on the Original Series A Issue Date), as adjusted for any Recapitalizations, with respect to such shares and any shares issued upon exercise of such options (such excluded options and shares, the "*Reserved Option Shares*").

8.2.1.2. "*Convertible Securities*" shall mean any evidences of indebtedness, shares or other securities (other than Options) directly or indirectly convertible into or exchangeable for Common Stock.

8.2.1.3. "*Additional Shares of Common Stock*" shall mean all shares of Common Stock issued (or, pursuant to Section 8.2.3 below, deemed to be issued) by the Corporation after the Original Series A Issue Date, other than:

(i) shares of Common Stock issued or issuable upon a Qualified Public Offering;

(ii) shares of Common Stock issued or issuable as a dividend or distribution on Series A Preferred Stock, Series A-1 Preferred Stock or Series A-2 Preferred Stock or upon the conversion of any thereof; and

(iii) the Reserved Option Shares.

8.2.2. *No Adjustment of Series A Conversion Price.* No adjustment in the number of shares of Common Stock into which the shares of Series A Preferred Stock are convertible shall be made, by adjustment in the applicable Series A Conversion Price thereof, unless the consideration per share (determined pursuant to Section 8.2.5) for an Additional Share of Common Stock issued or deemed to be issued by the Corporation is less than the applicable Series A Conversion Price in effect on the date of, and immediately prior to, the issue of such Additional Shares.

8.2.3. *Issue of Options and Convertible Securities Deemed Issue of Additional Shares of Common Stock.* If the Corporation at any time or from time to time after the Original Series A Issue Date shall issue any Options or Convertible Securities (other than those options and convertible securities excluded from the definition of Additional Shares of Common Stock in Section 8.2.1.3) or shall fix a record date for the determination of holders of any class or series of securities entitled to receive any such Options or Convertible Securities, then the maximum number of shares of Common Stock (as set forth in the instrument relating thereto without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or, in the case of Convertible Securities and Options therefore, the conversion or exchange of such Convertible Securities, shall be deemed to be Additional Shares of Common Stock issued as of the time of such issue or, in case such a

record date shall have been fixed, as of the close of business on such record date, provided that in any such case in which Additional Shares of Common Stock are deemed to be issued:

8.2.3.1. no further adjustment in the Series A Conversion Price shall be made upon the subsequent issue of Convertible Securities or shares of Common Stock upon the exercise of such Options or conversion or exchange of such Convertible Securities and, upon the expiration of any such Option or the termination of any such right to convert or exchange such Convertible Securities, the Series A Conversion Price then in effect hereunder shall forthwith be increased (but not to exceed the Series A Conversion Price on the Original Series A Issue Date) to the Series A Conversion Price which would have been in effect at the time of such expiration or termination had such Options or Convertible Securities, to the extent outstanding immediately prior to such expiration or termination, never been issued, and the Common Stock issuable thereunder shall no longer be deemed to be outstanding; and

8.2.3.2. if such Options or Convertible Securities by their terms provide, with the passage of time or otherwise, for any increase or decrease in the consideration payable to the Corporation, or increase or decrease in the number of shares of Common Stock issuable, upon the exercise, conversion or exchange thereof, the Series A Conversion Price computed upon the original issue thereof (or upon the occurrence of a record date with respect thereto), and any subsequent adjustments based thereon, shall, upon any such increase or decrease becoming effective, be recomputed to reflect such increase or decrease insofar as it affects such Options or the rights of conversion or exchange under such Convertible Securities, provided that no readjustment pursuant to this clause 8.2.3.2 shall have the effect of increasing the Series A Conversion Price to an amount which exceeds the lower of (i) the Series A Conversion Price on the original adjustment date, or (ii) the Series A Conversion Price that would have resulted from any issuance of Additional Shares of Common Stock between the original adjustment date and such readjustment date (but not to exceed the Series A Conversion Price on the Original Series A Issue Date).

8.2.4. *Adjustment of Series A Conversion Price Upon Issuance of Additional Shares of Common Stock.* In the event the Corporation shall issue Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Section 8.2.3 without consideration or for a consideration per share less than the then applicable Series A Conversion Price (the "Series A Triggering Transaction"), then and in such event, (i) if the Series A Triggering Transaction occurs on or prior to the date which is twelve (12) months following the Original Series A-2 Issue Date, the applicable Series A Conversion Price shall be concurrently reduced to the consideration per share received by the Corporation at which the new shares are issued and (ii) if the Series A Triggering Transaction occurs after the date which is

twelve (12) months following the Original Series A-2 Issue Date, the applicable Series A Conversion Price shall be reduced to a price (calculated to the nearest tenth of a cent) determined by multiplying such Series A Conversion Price immediately prior to issuance of Additional Shares of Common Stock by a fraction having:

8.2.4.1. for numerator, the sum of (i) the Number of Common Shares Deemed Outstanding immediately prior to such issuance, plus (ii) the number of shares of Common Stock that the aggregate consideration received by the Corporation for such issuance would purchase at the Series A Conversion Price; and

8.2.4.2. for denominator, the sum of (i) the Number of Common Shares Deemed Outstanding immediately prior to such issuance, plus (ii) the number of shares of Common Stock issued (or deemed to be issued hereunder) in connection with a Series A Triggering Transaction.

8.2.4.3. The term "Number of Common Shares Deemed Outstanding" at any given time shall mean the sum of (i) the number of shares of Common Stock outstanding at such time, (ii) the number of shares of Common Stock issuable assuming conversion at such time of the Corporation's A Preferred Stock, and (iii) the number of shares of Common Stock deemed to be outstanding under Subsections 8.2.1.3(ii) and (iii).

8.2.5. *Determination of Consideration.* For purposes of this Section 8.2, the per share consideration received by the Corporation for the issue of any Additional Shares of Common Stock and shall be computed as follows:

8.2.5.1. *Cash and Property:* Such consideration shall:

(i) insofar as it consists of cash, be computed at the aggregate of cash received by the Corporation, excluding amounts paid or payable for accrued interest or accrued dividends;

(ii) insofar as it consists of property other than cash, be computed at the fair market value thereof at the time of such issue, as determined in good faith by the Board; and

(iii) in the event Additional Shares of Common Stock are issued together with other shares or securities or other assets of the Corporation for consideration which covers both, be the proportion of such consideration so received, computed as provided in clauses (i) and (ii) above, as determined in good faith by the Board.

8.2.5.2. *Options and Convertible Securities.* The consideration per share received by the Corporation for Additional Shares of Common Stock deemed to have been issued pursuant to Section 8.2.3, relating to Options and Convertible Securities, shall be determined by dividing

(i) the total amount, if any, received or receivable by the Corporation as consideration for the issue of such Options or Convertible Securities, plus the minimum aggregate amount of additional consideration (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such consideration) payable to the Corporation upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities, by

(ii) the maximum number of shares of Common Stock (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or the conversion or exchange of such Convertible Securities.

8.2.6. *Adjustment for Combinations or Consolidation of Common Stock.* If, at any time after the Original Series A Issue Date the number of shares of Common Stock outstanding are decreased by a combination of the outstanding shares of Common Stock, then following the record date fixed for such combination (or the date of such combination, if no record date is fixed), the applicable Series A Conversion Price shall be increased so that the number of shares of Common Stock issuable on conversion of each share of Series A Preferred Stock shall be decreased in proportion to such decrease in outstanding shares of Common Stock.

8.2.7. *Adjustment for Stock Dividends, Splits, Etc.* If the Corporation shall at any time after the Original Series A Issue Date fix a record date for the subdivision, split-up or stock dividend of shares of Common Stock, then, following the record date fixed for the determination of holders of shares of Common Stock entitled to receive shares pursuant to such subdivision, split-up or dividend (or the date of such subdivision, split-up or dividend, if no record date is fixed), the Series A Conversion Price shall be appropriately decreased so that the number of shares of Common Stock issuable on conversion of each share of Series A Preferred Stock shall be increased in proportion to such increase in outstanding shares; provided, however, that the Series A Conversion Price shall not be decreased at such time if the amount of such reduction would be an amount less than \$0.01, but any such amount shall be carried forward and reduction with respect thereto made at the time of and together with any

subsequent reduction which, together with such amount and any other amount or amounts so carried forward, shall aggregate \$0.01 or more.

8.2.8. *Adjustment for Merger or Reorganization, Etc.* In case of any consolidation, recapitalization or merger of the Corporation with or into another corporation or the sale of all or substantially all of the assets of the Corporation to another corporation (other than a subdivision or combination provided for elsewhere in this Section 8 and other than a consolidation, merger or sale that is treated as a Liquidation Event pursuant to Section 3), each share of Series A Preferred Stock shall thereafter be convertible into the kind and amount of shares of stock or other securities or property to which a holder of the number of shares of Common Stock of the Corporation deliverable upon conversion of such shares of Series A Preferred Stock would have been entitled upon such consolidation, merger or sale; and, in such case, appropriate adjustment (as determined in good faith by the Board of Directors) shall be made in the application of the provisions in this Section 8 set forth with respect to the rights and interest thereafter of the holders of the shares of Series A Preferred Stock, to the end that the provisions set forth in this Section 8 (including provisions with respect to changes in and other adjustments of the Series A Conversion Price) shall thereafter be applicable, as nearly as reasonably may be, in relation to any shares of stock or other property thereafter deliverable upon the conversion of the shares of Series A Preferred Stock.

9. *General Provisions Relating to Conversion.*

9.1. *Reorganization and Recapitalization.* The provisions of Section 8 shall similarly apply to successive reorganizations, reclassifications, consolidations, mergers, sales, exchanges, leases, transfers, or other dispositions or other share exchanges.

9.2. *No Reissuance of Series A Preferred Stock.* Any share or shares of Series A Preferred Stock cancelled or acquired by the Corporation by reason of redemption, purchase, conversion or otherwise shall be retired and shall not be subject to reissuance, and the capital of the Corporation shall be reduced by a corresponding amount.

9.3. *Notice of Adjustment.* Whenever the Series A Conversion Price shall be adjusted as provided in Section 8 or Section 9 hereof, the Corporation shall prepare and send to each holder of shares of the Series A Preferred Stock a statement, signed by the chief financial officer of the Corporation, showing in detail the facts requiring such adjustment and the Series A Conversion Price that shall be in effect after such adjustment.

9.4. *Notice of Adjustment Events.* In the event the Corporation shall propose to take any action of the types described in Sections 8.1, 8.2, or 9.1 hereof,

the Corporation shall give notice to each holder of shares of the Series A Preferred Stock, which notice shall specify the record date, if any, with respect to any such action and the date on which such action is to take place. Such notice shall be given on or prior to the earlier of 30 days prior to the record date or the date on which such action shall be taken. Such notice shall also set forth such facts with respect thereto as shall be reasonably necessary to indicate the effect of such action (to the extent such effect may be known at the date of such notice) on the Series A Conversion Price and the number, kind or class or series of shares or other securities or property which shall be deliverable or purchasable upon the occurrence of such action or deliverable upon conversion of shares of Series A Preferred Stock. Failure to give notice in accordance with this Section 9.4 shall not render such action ultra vires, illegal or invalid.

9.5. *Taxes.* The Corporation shall pay all documentary, stamp or other transactional taxes and charges attributable to the issuance or delivery of shares of stock of the Corporation upon conversion of any shares of Series A Preferred Stock; provided, however, 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 shares in a name other than that of the holder of the shares of Series A Preferred Stock in respect of which such shares are being issued.

9.6. *Reservation of Shares.* The Corporation shall at all times reserve and keep available, free from preemptive rights, unissued or treasury shares of Common Stock sufficient to effect the conversion of all of the issued and outstanding shares of Series A Preferred Stock.

10. *Restrictions and Limitations.* Notwithstanding any provision to the contrary otherwise contained in the Corporation's Articles of Incorporation, the Corporation shall not, by amendment of its Articles of Incorporation or through any Liquidation Event or other reorganization, transfer of assets, consolidation, merger, liquidation, dissolution, issue or sale of securities, agreement or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed under the Articles of Incorporation by the Corporation but shall at all times in good faith assist in the carrying out of all the provisions set forth in the Articles of Incorporation and in the taking of all such action as may be necessary or appropriate in order to protect the rights of the holders of the shares of Series A Preferred Stock against impairment. Without limitation of the foregoing, the Corporation shall take such action as shall be necessary or appropriate, to the extent reasonably within its control, to remove promptly any impediments to its ability to redeem the shares of A Preferred Stock under the circumstances contemplated by Section 4 hereof. Any successor to the Corporation shall agree, as a condition to such succession, to carry out and observe the obligations of the Corporation under the Articles of Incorporation with respect to the shares of Series A Preferred Stock.

II. SERIES A-1 PREFERRED STOCK

1. *Description of Amount and Stated Value.* The Series A-1 Preferred Stock is issuable solely in whole shares and shall entitle the holder thereof to exercise the voting rights, to participate in distributions and to have the benefits of all other rights of holders of the Series A-1 Preferred Stock as set forth herein. The number of shares which shall constitute such series shall be 120,000 shares, par value \$10.00 per share. The Series A-1 Preferred Stock shall rank on parity with the Series A Preferred Stock and Series A-2 Preferred Stock and shall rank senior to all other shares of the Corporation with respect to liquidation rights. The issuance price of Series A-1 Preferred Stock shall be \$10.00 per share (the "Original Series A-1 Purchase Price") (such amount shall be adjusted appropriately for stock splits, stock dividends, recapitalizations and the like with respect to the Series A-1 Preferred Stock). The issue date of the first share of Series A-1 Preferred Stock by the Corporation shall hereinafter be referred to as the "Original Series A-1 Issue Date".

2. *No Dividends.* No dividends shall be payable on the Series A-1 Preferred Stock.

3. *Rights on Liquidation, Dissolution, or Winding up.*

3.1 In the event of any liquidation, dissolution or winding up of the Corporation, the holders of shares of the Series A-1 Preferred Stock then issued and outstanding shall be entitled to be paid out of the assets of the Corporation available for distribution to its stockholders, whether from capital, surplus or earnings, before any payment shall be made to the holders of shares of the Common Stock or of shares of any other class or series of stock of the Corporation other than the Series A Preferred Stock and the Series A-2 Preferred Stock, an amount equal to the greater of (a) the Market Value of the as-if-converted to Common Stock of the Series A-1 Preferred Stock (as determined pursuant to Section 4.3, below) without regard to minority or illiquidity discounts, or (b) two (2) times the Original Series A-1 Purchase Price until September 10, 2008 and thereafter an amount equal to three (3) times the Original Series A-1 Purchase Price (the "Series A-1 Liquidation Preference"). If, upon any liquidation, dissolution or winding up of the Corporation, the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of shares of the A Preferred Stock the full amounts to which they shall respectively be entitled, the holders of shares of the A Preferred Stock shall receive all of the assets of the Corporation available for distribution and each such holder of shares of the A Preferred Stock shall share ratably in any distribution in the proportion which the amount payable to each such holder in respect of the shares of A Preferred Stock owned by him bears to the aggregate of all amounts payable to the holders of the A Preferred Stock. After payment shall have been made to the holders of shares of the A Preferred Stock of the full amount to which they shall be entitled, as aforesaid, the remaining assets and funds of the Corporation

available for distribution to its stockholders shall be distributed among the holders of shares of Common Stock then outstanding. The following events ("Liquidation Events") shall be considered a liquidation under this Section:

3.1.1 any consolidation or merger of the Corporation or its subsidiaries with or into any other corporation or other entity or person, or any other corporate reorganization, in which the stockholders of the Corporation immediately prior to such consolidation, merger or reorganization own less than a majority of the Corporation's voting power immediately after such consolidation, merger or reorganization, or any transaction or series of related transactions to which the Corporation is or its stockholders are a party in which 50% or more of the Corporation's outstanding voting power is transferred (an "Acquisition"); or

3.1.2 a sale, lease, license or other disposition of all or substantially all of the assets of the Corporation or its subsidiaries (an "Asset Transfer" and, together with an Acquisition, a "Liquidation Event").

3.2 In connection with any Liquidation Event which involves the payment of cash and non-cash consideration, the holders of Series A-1 Preferred Stock shall, on the effective date of such Liquidation Event, be paid the amounts due to such holders in respect of their Series A-1 Preferred Stock under Section 3.1 in the same combination and proportion of cash and such non-cash consideration as is payable to the holders of Common Stock, except as may be otherwise elected by the holders of a majority of the outstanding shares of Series A-1 Preferred Stock. Any securities or other non-cash consideration to be delivered to the holders of the Series A-1 Preferred Stock upon any Liquidation Event shall be valued as follows: (a) if traded on a national securities exchange or the NASDAQ National Market System, the value shall be deemed to be the average of the closing prices of the securities on such exchange or system over the twenty (20) trading days preceding the consummation of such Liquidation Event or (b) if there is no active public market, the value shall be the fair market value thereof, as determined in good faith by resolution of the Board of Directors of the Corporation and the holders of a majority of the outstanding shares of Series A-1 Preferred Stock.

3.3 Prior to the occurrence of any Liquidation Event, the Corporation will furnish each holder of shares of Series A-1 Preferred Stock notice in accordance with Section 11 hereof, together with a certificate prepared by the chief financial officer of the Corporation describing in reasonable detail the facts of such Liquidation Event, stating in reasonable detail the amount per share of Series A-1 Preferred Stock each holder of Series A-1 Preferred Stock would receive pursuant to the provisions of Section 3.1 hereof and stating in reasonable detail the facts upon which such amount was determined and describing in reasonable detail all material terms of such Liquidation Event, including, without limitation, the consideration to be delivered in connection

with such Liquidation Event, the valuation of the Corporation at the time of such Liquidation Event and the identities of the parties to the Liquidation Event.

4. *Redemption.*

4.1. At any time after the fifth anniversary of the Original Series A-1 Issue Date, the holders in interest of at least two-thirds of the then outstanding Series A-1/A-2 Preferred Stock, voting together as a single class, may notify the Corporation in writing (the "Holder Redemption Notice") of their election to require the Corporation to redeem their shares of A Preferred Stock.

4.2. Promptly following receipt of the Holder Redemption Notice, the Corporation shall notify the holders of A Preferred Stock of their right to have their shares redeemed. The electing holders of A Preferred Stock (the "A Redeeming Holders," and to the extent such holders are holders of Series A-1 Preferred Stock, the "Series A-1 Redeeming Holders" and, together with holders who are holders of Series A-2 Preferred Stock, the "Series A-1/A-2 Redeeming Holders") may elect to sell to the Corporation all or a portion of their shares of A Preferred Stock by delivering to the Corporation written notice within thirty (30) days after the receipt of the foregoing notice from the Corporation, which shall specify the number of such shares of A Preferred Stock to be redeemed (the "A Redemption Shares," and to the extent such A Preferred Stock is Series A-1 Preferred Stock, the "Series A-1 Redemption Shares"). The closing date (the "A Redemption Date") shall be fixed by the Corporation and shall not be less than 10 nor more than 30 days after the receipt by the Corporation of the foregoing notice from the holder of A Preferred Stock. The redemption price for each Series A-1 Redemption Share shall be the greater of (i) the Series A-1 Liquidation Preference or (ii) the Market Value (as determined below) of a share of the Series A-1 Preferred Stock (such sum being hereinafter referred to as the "Series A-1 Redemption Price").

4.3. The Market Value of the as-if-converted to Common Stock of the Series A-1 Redemption Shares shall be determined as follows:

4.3.1. if the securities are then traded on a national securities exchange, the NASDAQ National Market System (or a similar national quotation system) or the NASDAQ SmallCap Market, then the value shall be deemed to be the average of the closing prices of the securities on such exchange or system over the thirty (30) day period ending three (3) days prior to the A Redemption Date;

4.3.2. if actively traded over-the-counter, then the value shall be deemed to be the average of the closing bid prices over the thirty (30) day period ending three (3) days prior to the A Redemption Date; or

4.3.3. if there is no active public market, the Corporation and the Series A-1/A-2 Redeeming Holders shall attempt in good faith to agree on the Market Value. Any agreement reached by such persons shall be final and binding on all parties hereto. If such persons are unable to reach such agreement within thirty (30) days after the giving of any Holder Redemption Notice, a disinterested appraisal firm that is a member of a recognized professional association reasonably acceptable to the Corporation and the holders of at least a majority of the Series A-1/A-2 Redeeming Holders shall determine Market Value as set forth below. If the parties are unable to agree on an appraisal firm within ten (10) days after the delivery of the Holder Redemption Notice, a firm shall be selected by lot from the top-tier investment banking firms, after the Corporation and the Series A-1/A-2 Redeeming Holders have each eliminated one such firm (the "*Series A-1/A-2 Appraisal Firm*"). The Series A-1/A-2 Appraisal Firm shall then make a determination of the Market Value, and, using such determination of Market Value, shall calculate the Market Value of one (1) share of Series A-1 Preferred Stock (the "*Series A-1 Appraised Price*"). The selection and determination of the Series A-1/A-2 Appraisal Firm shall be final and binding upon all parties. In the event that the Series A-1 Appraised Price is greater than the Market Value, as first determined by the Corporation, by ten percent (10%) or more, then the Corporation shall pay all costs of the Series A-1/A-2 Appraisal Firm. In the event that the Series A-1 Appraised Price is greater than the Market Value, as first determined by the Corporation, by less than ten percent (10%), then the expenses of the Series A-1/A-2 Appraisal Firm shall be borne equally by the Corporation and the A Redeeming Holders.

4.4. For purposes of Section 4.3.3 above, "*Market Value*" means the fair market value of the Corporation's entire common equity on a fully-diluted basis (assuming the exercise of all warrants, options or other rights to acquire Common Stock and the payment of the exercise price therefore, and the conversion of all securities convertible directly or indirectly into Common Stock) determined on a going concern basis as between a willing buyer and a willing seller and taking into account all relevant factors determinative of value but not taking into account discounts for minority status or lack of liquidity.

4.5. The Corporation shall purchase, and the A Redeeming Holders shall sell, the A Redemption Shares, in three (3) equal installments (each an "*A Redemption Payment*"), the first to occur on the A Redemption Date, the second to occur six (6) months from the A Redemption Date and the third to occur twelve (12) months from the A Redemption Date (each, an "*A Redemption Closing*"). The Corporation shall notify in writing all the holders in interest of the then outstanding A Preferred Stock of the date and place of each A Redemption Closing at least seven (7) days prior to such A Redemption Closing.

4.6 At each A Redemption Closing, the A Redeeming Holders shall deliver to the Corporation certificates representing one-third (1/3) of the A Redemption Shares held by such A Redeeming Holder. If less than all of the shares represented by such certificate are redeemed, then the Corporation shall promptly issue a new certificate representing the unredeemed shares. The Corporation shall deliver to each Series A-1 Redeeming Holder the Series A-1 Redemption Price for each share of Series A-1 Preferred Stock to be sold to the Corporation at each A Redemption Closing in cash (by cashier's or certified check or by wire transfer of immediately available funds to an account designated by such holder). If on any date on which shares of A Preferred Stock are to be redeemed, funds of the Corporation legally available therefore shall be insufficient to redeem all of the A Redemption Shares required to be redeemed as provided for herein on such date, funds to the extent legally available to redeem such A Redemption Shares shall be used for such purpose and the Corporation shall effect such redemption pro rata according to the number of A Redemption Shares then held by each A Redeeming Holder. At any time thereafter when additional funds of the Corporation are legally available for the redemption of such A Redemption Shares, such funds will immediately be used to redeem the balance of the shares which the Corporation has become obligated to redeem on such A Redemption Date but which it has not redeemed at, with respect to the Series A-1 Redemption Shares, the Series A-1 Redemption Price as provided in Section 4.7 below. All additional funds will be distributed prorata among all A Redeeming Shares. Any shares of Series A-1 Preferred Stock which have not been redeemed shall remain outstanding and entitled to all the rights and preferences provided herein.

4.7. If, on any date on which shares of A Preferred Stock are to be redeemed, funds of the Corporation legally available therefore shall be insufficient to redeem all of the A Redemption Shares required to be redeemed as provided for herein on such date or (b) the Corporation otherwise fails to make an A Redemption Payment in full pursuant to Section 4.6 above (each, a "Default"), the shares of A Preferred Stock not redeemed shall remain outstanding and entitled to all the rights and preferences provided herein. In addition, upon a Default, (i) notwithstanding any other provision of the Articles of Incorporation, the size of the Board of Directors shall immediately be increased such that the number of newly created directorships plus the number of representatives of the Series A-1/A-2 Preferred Stock on the Board of Directors equals a majority of the Board of Directors and (ii) the holders in interest of at least a majority of the then outstanding Series A-1/A-2 Preferred Stock, voting together as a single class, shall have the right to (in their sole discretion) elect such number of additional persons to the Board of Directors such that a majority of the directors are representatives of the Series A-1/A-2 Preferred Stock.

4.8. Whenever under the provisions of Section 4.7 the right shall have accrued to the holders of the Series A-1/A-2 Preferred Stock to elect a majority of the directors as specified herein, the Board of Directors shall immediately call a special

meeting of the stockholders for the election of directors, to be held upon not less than ten (10) nor more than twenty (20) days' notice to such stockholders. If such notice of meeting is not given within the time as herein required, the holders in interest of at least a majority of the then outstanding Series A-1/A-2 Preferred Stock may call such a meeting and for such purpose shall have access to the stock books and records of the Corporation. At any meeting so called or at any other meeting held while the holders of the Series A-1/A-2 Preferred Stock shall have the voting power provided in Section 4.7, the holders of at least a majority of the then outstanding shares of Series A-1/A-2 Preferred Stock present in person or by proxy or voting by written consent shall be sufficient to constitute a quorum for the election of directors as herein provided. In the case of any vacancy in the office of a director occurring among the directors elected by the holders of Series A-1/A-2 Preferred Stock, the remaining directors so elected by the holders of the Series A-1/A-2 Preferred Stock may by affirmative vote of a majority thereof (or the remaining director so elected if there be but one (1)) elect a successor or successors to hold office for the unexpired term of the director or directors whose place or places shall be vacant, provided, that if there are no remaining directors so elected, the vacancies may be filled by the affirmative vote of the holders of at least a majority of the then outstanding shares of Series A-1/A-2 Preferred Stock, voting together as a single class, given either at a special meeting of such stockholders duly called for that purpose or pursuant to a written consent of such stockholders. Any directors who shall have been elected by the holders of the Series A-1/A-2 Preferred Stock pursuant to this Section 4.8 may be removed, with or without cause, during the aforesaid term of office by the affirmative vote of at least a majority of the then outstanding shares of Series A-1/A-2 Preferred Stock, voting together as a single class, given either at a special meeting of stockholders duly called for that purpose or pursuant to a written consent of stockholders, and any vacancy thereby created may be filled by the holders of Series A-1/A-2 Preferred Stock, voting together as a single class, represented at such meeting or pursuant to such written consent.

4.9. For the purpose of determining whether funds are legally available for redemption of the A Redemption Shares as provided herein, the Corporation shall, to the extent permitted by law, value its assets at the highest amount determined in good faith by the Corporation's independent accounting firm. From and after the A Redemption Date, unless there shall have been a Default, all rights of the Series A-1 Redeeming Holders (except the right to receive the Series A-1 Redemption Price) shall cease with respect to the shares to be redeemed on such A Redemption Date, and such shares shall not thereafter be transferred on the books of the Corporation or be deemed to be outstanding for any purpose whatsoever.

5. *Voting.* Each holder of Series A-1 Preferred Stock shall be entitled to the number of votes equal to the number of shares of Common Stock into which the shares of Series A-1 Preferred Stock held of record by such holder are convertible (as adjusted from time to time pursuant to Section 8 and Section 9.1 hereof), at each

meeting of stockholders of the Corporation (and written actions of stockholders in lieu of meetings) with respect to any and all matters presented to the stockholders of the Corporation for their action or consideration. Except as provided by law and by other parts of the Articles of Incorporation, the holders of Series A-1 Preferred Stock shall vote, when entitled hereunder, together with the holders of Series A Preferred Stock, Series A-2 Preferred Stock and the Common Stock as a single class. The holders of Series A-1 Preferred Stock shall have the exclusive right, voting separately as a class, to elect one member of the Board of Directors (the "Series A-1 Director"). The right of the holders of Series A-1 Preferred stock to elect one member of the Board of Directors as provided herein shall terminate upon a Qualified Public Offering. To the extent the Series A Preferred Stock or Series A-1 Preferred Stock or Series A-2 Preferred Stock is entitled to more or less than 1 vote for any share, on any matter, every reference in the Articles of Incorporation to a majority or other proportion of stock, voting stock, or shares shall refer to such majority or other proportion of the votes of such stock, voting stock or shares.

6. *Conversion*

6.1. *Conversion by Series A-1 Preferred Stockholders.*

6.1.1. The holder of any shares of the Series A-1 Preferred Stock shall have the right, at such holder's option except as provided below, at any time and from time to time to convert all or any number of such shares of Series A-1 Preferred Stock into such number of fully paid and nonassessable shares of Common Stock as shall be provided herein.

6.1.2. The holder of any shares of Series A-1 Preferred Stock may exercise the conversion right provided in this Section 6.1 by giving written notice (the "Series A-1 Conversion Notice") to the Corporation stating the number of shares of Series A-1 Preferred Stock to be converted (the "Series A-1 Conversion Shares"), the name or names in which the stock certificate or stock certificates for the shares of Common Stock are to be issued and the address to which such certificates shall be delivered. The Series A-1 Conversion Notice shall be accompanied by the stock certificate or stock certificates representing the Series A-1 Conversion Shares, duly endorsed to the Corporation. The number of shares of Common Stock that shall be issuable upon conversion of the Series A-1 Conversion Shares shall equal the Original Series A-1 Purchase Price for the Series A-1 Conversion Shares divided by the Series A-1 Conversion Price in effect at the time of conversion, as such Series A-1 Conversion Price may have been adjusted pursuant to Sections 8 and 9.1 hereof.

6.1.3. Conversion shall be deemed to have been effected on the date the Series A-1 Conversion Notice is given (the "Series A-1 Conversion Date"). Within 10 business days after receipt of the Series A-1 Conversion Notice, the

Corporation shall issue and deliver by hand against a signed receipt therefore or by United States registered mail, return receipt requested, to the address designated by the holder of the Series A-1 Conversion Shares in the Series A-1 Conversion Notice, a stock certificate or stock certificates of the Corporation representing the number of shares of Common Stock to which such holder is entitled. In the event that only a portion of the number of shares of Series A-1 Preferred Stock represented by a stock certificate surrendered for conversion shall be Series A-1 Conversion Shares, the Corporation shall issue and deliver in the manner aforesaid to the holder of the stock certificate so surrendered for conversion, at the expense of the Corporation, a new stock certificate for the number of unconverted shares of Series A-1 Preferred Stock.

6.2. Automatic Conversion Upon Qualified Public Offering.

6.2.1. If the Corporation shall consummate a Qualified Public Offering (as hereinafter defined), upon the date of the declaration or order of effectiveness (the "Effective Date") of such Qualified Public Offering, all, but not less than all, of the outstanding shares of the Series A-1 Preferred Stock shall automatically convert into such number of fully paid and nonassessable shares of Common Stock as shall be equal to the Original Series A-1 Purchase Price for the Series A-1 Preferred Stock issued and outstanding on the day immediately preceding the Effective Date divided by the Series A-1 Conversion Price in effect at the close of business on the day immediately preceding the Effective Date, as such Series A-1 Conversion Price may have been adjusted pursuant to Sections 8 and 9.1 hereof, without any further action by the holders of such shares and whether or not the certificates representing such shares of Series A-1 Preferred Stock are surrendered to the Corporation or its transfer agent. On the Effective Date, all rights with respect to the shares of Series A-1 Preferred Stock so converted shall terminate, except any of the rights of the holders thereof upon surrender of their certificate or certificates therefore or delivery of an Affidavit of Loss thereof to receive certificates for the number of shares of Common Stock into which such shares of Series A-1 Preferred Stock have been converted.

6.2.2. The term "Qualified Public Offering" shall mean any offering by the Corporation of shares of Common Stock (whether for the account of the Corporation or for the account of one or more shareholders of the Corporation) pursuant to a registration effected by preparing and filing a registration statement in compliance with the Securities Act of 1933 (the "Act") and the declaration or ordering of effectiveness of such registration statement, other than a registration on Form S-1 or S-8 relating solely to employee stock option or purchase plans or on Form S-14 relating solely to an offering under Rule 145 promulgated under the Act; provided, however, that the shares of Common Stock offered pursuant to such offering shall be offered for a price per share equal to or greater than \$6.00 per share (appropriately adjusted for subdivisions and combinations of shares of Common Stock and prior to underwriting commissions and expenses) and aggregate gross proceeds of not less than \$20,000,000.

6.2.3. Within 10 business days after the Effective Date, the Corporation shall issue and deliver by hand against a signed receipt therefore or by United States registered mail, return receipt requested, to the holder of the shares of the Series A-1 Preferred Stock so converted a stock certificate or stock certificates of the Corporation representing the number of shares of Common Stock to which such holder is entitled.

6.3 *Automatic Conversion Upon Election of Holders of a Majority of Outstanding Shares of Series A-1/A-2 Preferred Stock.*

6.3.1 If the holders of at least a majority of the then outstanding shares of Series A-1/A-2 Preferred Stock elect in writing to convert their shares of A Preferred Stock into Common Stock, then upon the date specified by the holders of Series A-1/A-2 Preferred Stock in such written election (the "Voluntary Group A Preferred Conversion Date"), all, but not less than all, of the outstanding shares of the Series A-1 Preferred Stock shall automatically convert into such number of fully paid and nonassessable shares of Common Stock as shall be equal to the Original Series A-1 Purchase Price for the Series A-1 Preferred Stock issued and outstanding on the day immediately preceding the Voluntary Group A Preferred Conversion Date divided by the Series A-1 Conversion Price in effect at the close of business on the day immediately preceding the Voluntary Group A Preferred Conversion Date, as such Series A-1 Conversion Price may have been adjusted pursuant to Sections 8 and 9.1 hereof, without any further action by the holders of such shares and whether or not the certificates representing such shares of Series A-1 Preferred Stock are surrendered to the Corporation or its transfer agent. On the Voluntary Group A Preferred Conversion Date, all rights with respect to the shares of Series A-1 Preferred Stock so converted shall terminate, except any of the rights of the holders thereof upon surrender of their certificate or certificates therefore or delivery of an Affidavit of Loss thereof to receive certificates for the number of shares of Common Stock into which such shares of Series A-1 Preferred Stock have been converted.

6.3.2 Within 10 business days after the Voluntary Group A Preferred Conversion Date, the Corporation shall issue and deliver by hand against a signed receipt therefore or by United States registered mail, return receipt requested, to the holder of the shares of the Series A-1 Preferred Stock so converted a stock certificate or stock certificates of the Corporation representing the number of shares of Common Stock to which such holder is entitled.

6.4 *Fractional Shares.* The Corporation shall not be obligated to deliver to any holder of shares of a series of Series A-1 Preferred Stock any fractional share of Common Stock issuable upon any conversion of such shares (after aggregating all shares of Common Stock into which all shares of Series A-1 Preferred Stock held by

each holder could be converted), but in lieu thereof may make a cash payment in respect thereof in any manner permitted by law.

6.5. *Other Applicable Sections.* The provisions of Sections 8 and 9 of this Article shall be applicable to the conversion rights provided in this Section 6.

7. *Preemptive Rights.* The holders of the shares of Series A-1 Preferred Stock shall have no common law preemptive rights.

8. *Series A-1 Conversion Price.*

8.1. The initial Series A-1 Conversion Price at which shares of Common Stock shall be deliverable upon conversion of Series A-1 Preferred Stock without payment of additional consideration by the holder thereof (the "Series A-1 Conversion Price") shall be \$0.6667, such that each share of Series A-1 Preferred Stock shall initially be convertible into fifteen (15) shares of Common Stock. The Series A-1 Conversion Price shall be subject to adjustment in accordance with and at the times provided in this Section 8 and Section 9.1.

8.2. *Adjustments to Series A-1 Conversion Price for Diluting Issues:*

8.2.1. *Special Definitions.* For purposes of this Section 8.2, the following definitions shall apply:

8.2.1.1. "*Option*" shall mean rights, options or warrants to subscribe for, purchase or otherwise acquire Common Stock or Convertible Securities (as defined below) or restricted stock, excluding options granted to or shares of restricted stock acquired by employees, directors or consultants of the Corporation pursuant to an option plan or other compensation arrangement adopted by the Board of Directors providing for the authorization and reservation of up to 747,500 shares of Common Stock (which number shall include the number of shares or shares subject to options outstanding on the Original Series A Issue Date), as adjusted for any Recapitalizations, with respect to such shares and any shares issued upon exercise of such options (such excluded options and shares, the "*Reserved Option Shares*").

8.2.1.2. "*Convertible Securities*" shall mean any evidences of indebtedness, shares or other securities (other than Options) directly or indirectly convertible into or exchangeable for Common Stock.

8.2.1.3. "*Additional Shares of Common Stock*" shall mean all shares of Common Stock issued (or, pursuant to Section 8.2.3 below, deemed to be issued) by the Corporation after the Original Series A-1 Issue Date, other than:

(i) shares of Common Stock issued or issuable upon a Qualified Public Offering;

(ii) shares of Common Stock issued or issuable as a dividend or distribution on Series A Preferred Stock, Series A-1 Preferred Stock or Series A-2 Preferred Stock or upon the conversion of any thereof; and

(iii) the Reserved Option Shares.

8.2.2. *No Adjustment of Series A-1 Conversion Price.* No adjustment in the number of shares of Common Stock into which the shares of Series A-1 Preferred Stock are convertible shall be made, by adjustment in the applicable Series A-1 Conversion Price thereof, unless the consideration per share (determined pursuant to Section 8.2.5) for an Additional Share of Common Stock issued or deemed to be issued by the Corporation is less than the applicable Series A-1 Conversion Price in effect on the date of, and immediately prior to, the issue of such Additional Shares.

8.2.3. *Issue of Options and Convertible Securities Deemed Issue of Additional Shares of Common Stock.* If the Corporation at any time or from time to time after the Original Series A-1 Issue Date shall issue any Options or Convertible Securities (other than those options and convertible securities excluded from the definition of Additional Shares of Common Stock in Section 8.2.1.3) or shall fix a record date for the determination of holders of any class or series of securities entitled to receive any such Options or Convertible Securities, then the maximum number of shares of Common Stock (as set forth in the instrument relating thereto without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or, in the case of Convertible Securities and Options therefore, the conversion or exchange of such Convertible Securities, shall be deemed to be Additional Shares of Common Stock issued as of the time of such issue or, in case such a record date shall have been fixed, as of the close of business on such record date, provided that in any such case in which Additional Shares of Common Stock are deemed to be issued:

8.2.3.1. no further adjustment in the Series A-1 Conversion Price shall be made upon the subsequent issue of Convertible Securities or shares of Common Stock upon the exercise of such Options or conversion or exchange of such Convertible Securities and, upon the expiration of any such Option or the termination of any such right to convert or exchange such Convertible Securities, the Series A-1 Conversion Price then in effect hereunder shall forthwith be increased (but not to exceed the Series A-1 Conversion Price on the Original Series A-1 Issue Date) to the Series A-1 Conversion Price which would have been in effect at the time of such expiration or termination had such Options or Convertible Securities, to the extent outstanding immediately prior to such expiration or termination, never been issued,

and the Common Stock issuable thereunder shall no longer be deemed to be outstanding; and

8.2.3.2. if such Options or Convertible Securities by their terms provide, with the passage of time or otherwise, for any increase or decrease in the consideration payable to the Corporation, or increase or decrease in the number of shares of Common Stock issuable, upon the exercise, conversion or exchange thereof, the Series A-1 Conversion Price computed upon the original issue thereof (or upon the occurrence of a record date with respect thereto), and any subsequent adjustments based thereon, shall, upon any such increase or decrease becoming effective, be recomputed to reflect such increase or decrease insofar as it affects such Options or the rights of conversion or exchange under such Convertible Securities, provided that no readjustment pursuant to this clause 8.2.3.2 shall have the effect of increasing the Series A-1 Conversion Price to an amount which exceeds the lower of (i) the Series A-1 Conversion Price on the original adjustment date, or (ii) the Series A-1 Conversion Price that would have resulted from any issuance of Additional Shares of Common Stock between the original adjustment date and such readjustment date (but not to exceed the Series A-1 Conversion Price on the Original Series A-1 Issue Date).

8.2.4. *Adjustment of Series A-1 Conversion Price Upon Issuance of Additional Shares of Common Stock.* In the event the Corporation shall issue Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Section 8.2.3 without consideration or for a consideration per share less than the then applicable Series A-1 Conversion Price (the "Series A-1 Triggering Transaction"), then and in such event, (i) if the Series A-1 Triggering Transaction occurs on or prior to that date which is twelve (12) months following the Original Series A-2 Issue Date, the applicable Series A-1 Conversion Price shall be concurrently reduced to the consideration per share received by the Corporation at which the new shares are issued and (ii) if the Series A-1 Triggering Transaction occurs after that date which is twelve (12) months following the Original Series A-2 Issue Date, the applicable Series A-1 Conversion Price shall be reduced to a price (calculated to the nearest tenth of a cent) determined by multiplying such Series A-1 Conversion Price immediately prior to issuance of Additional Shares of Common Stock by a fraction having:

8.2.4.1. for numerator, the sum of (i) the Number of Common Shares Deemed Outstanding immediately prior to such issuance, plus (ii) the number of shares of Common Stock that the aggregate consideration received by the Corporation for such issuance would purchase at the Series A-1 Conversion Price; and

8.2.4.2. for denominator, the sum of (i) the Number of Common Shares Deemed Outstanding immediately prior to such issuance, plus (ii) the number of shares of Common Stock issued (or deemed to be issued hereunder) in connection with a Series A-1 Triggering Transaction.

8.2.4.3. The term "Number of Common Shares Deemed Outstanding" at any given time shall mean the sum of (i) the number of shares of Common Stock outstanding at such time, (ii) the number of shares of Common Stock issuable assuming conversion at such time of the Corporation's A Preferred Stock, and (iii) the number of shares of Common Stock deemed to be outstanding under Subsections 8.2.1.3(ii) and (iii).

8.2.5. *Determination of Consideration.* For purposes of this Section 8.2, the per share consideration received by the Corporation for the issue of any Additional Shares of Common Stock and shall be computed as follows:

8.2.5.1. *Cash and Property:* Such consideration shall:

(i) insofar as it consists of cash, be computed at the aggregate of cash received by the Corporation, excluding amounts paid or payable for accrued interest or accrued dividends;

(ii) insofar as it consists of property other than cash, be computed at the fair market value thereof at the time of such issue, as determined in good faith by the Board; and

(iii) in the event Additional Shares of Common Stock are issued together with other shares or securities or other assets of the Corporation for consideration which covers both, be the proportion of such consideration so received, computed as provided in clauses (i) and (ii) above, as determined in good faith by the Board.

8.2.5.2. *Options and Convertible Securities.* The consideration per share received by the Corporation for Additional Shares of Common Stock deemed to have been issued pursuant to Section 8.2.3, relating to Options and Convertible Securities, shall be determined by dividing

(i) the total amount, if any, received or receivable by the Corporation as consideration for the issue of such Options or Convertible Securities, plus the minimum aggregate amount of additional consideration (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such consideration) payable to the Corporation upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities, by

(ii) the maximum number of shares of Common Stock (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or the conversion or exchange of such Convertible Securities.

8.2.6. *Adjustment for Combinations or Consolidation of Common Stock.* If, at any time after the Original Series A-1 Issue Date the number of shares of Common Stock outstanding are decreased by a combination of the outstanding shares of Common Stock, then following the record date fixed for such combination (or the date of such combination, if no record date is fixed), the applicable Series A-1 Conversion Price shall be increased so that the number of shares of Common Stock issuable on conversion of each share of Series A-1 Preferred Stock shall be decreased in proportion to such decrease in outstanding shares of Common Stock.

8.2.7. *Adjustment for Stock Dividends, Splits, Etc.* If the Corporation shall at any time after the Original Series A-1 Issue Date fix a record date for the subdivision, split-up or stock dividend of shares of Common Stock, then, following the record date fixed for the determination of holders of shares of Common Stock entitled to receive shares pursuant to such subdivision, split-up or dividend (or the date of such subdivision, split-up or dividend, if no record date is fixed), the Series A-1 Conversion Price shall be appropriately decreased so that the number of shares of Common Stock issuable on conversion of each share of Series A-1 Preferred Stock shall be increased in proportion to such increase in outstanding shares; provided, however, that the Series A-1 Conversion Price shall not be decreased at such time if the amount of such reduction would be an amount less than \$0.01, but any such amount shall be carried forward and reduction with respect thereto made at the time of and together with any subsequent reduction which, together with such amount and any other amount or amounts so carried forward, shall aggregate \$0.01 or more.

8.2.8. *Adjustment for Merger or Reorganization, Etc.* In case of any consolidation, recapitalization or merger of the Corporation with or into another corporation or the sale of all or substantially all of the assets of the Corporation to another corporation (other than a subdivision or combination provided for elsewhere in this Section 8 and other than a consolidation, merger or sale that is treated as a Liquidation Event pursuant to Section 3), each share of Series A-1 Preferred Stock shall thereafter be convertible into the kind and amount of shares of stock or other securities or property to which a holder of the number of shares of Common Stock of the Corporation deliverable upon conversion of such shares of Series A-1 Preferred Stock would have been entitled upon such consolidation, merger or sale; and, in such case, appropriate adjustment (as determined in good faith by the Board of Directors) shall be made in the application of the provisions in this Section 8 set forth with respect to the rights and interest thereafter of the holders of the shares of Series A-1 Preferred Stock,

to the end that the provisions set forth in this Section 8 (including provisions with respect to changes in and other adjustments of the Series A-1 Conversion Price) shall thereafter be applicable, as nearly as reasonably may be, in relation to any shares of stock or other property thereafter deliverable upon the conversion of the shares of Series A-1 Preferred Stock.

9. *General Provisions Relating to Conversion.*

9.1. *Reorganization and Recapitalization.* The provisions of Section 8 shall similarly apply to successive reorganizations, reclassifications, consolidations, mergers, sales, exchanges, leases, transfers, or other dispositions or other share exchanges.

9.2. *No Reissuance of Series A-1 Preferred Stock.* Any share or shares of Series A-1 Preferred Stock cancelled or acquired by the Corporation by reason of redemption, purchase, conversion or otherwise shall be retired and shall not be subject to reissuance, and the capital of the Corporation shall be reduced by a corresponding amount.

9.3. *Notice of Adjustment.* Whenever the Series A-1 Conversion Price shall be adjusted as provided in Section 8 or Section 9 hereof, the Corporation shall prepare and send to each holder of shares of the Series A-1 Preferred Stock a statement, signed by the chief financial officer of the Corporation, showing in detail the facts requiring such adjustment and the Series A-1 Conversion Price that shall be in effect after such adjustment.

9.4. *Notice of Adjustment Events.* In the event the Corporation shall propose to take any action of the types described in Sections 8.1, 8.2, or 9.1 hereof, the Corporation shall give notice to each holder of shares of the Series A-1 Preferred Stock, which notice shall specify the record date, if any, with respect to any such action and the date on which such action is to take place. Such notice shall be given on or prior to the earlier of 30 days prior to the record date or the date on which such action shall be taken. Such notice shall also set forth such facts with respect thereto as shall be reasonably necessary to indicate the effect of such action (to the extent such effect may be known at the date of such notice) on the Series A-1 Conversion Price and the number, kind or class or series of shares or other securities or property which shall be deliverable or purchasable upon the occurrence of such action or deliverable upon conversion of shares of Series A-1 Preferred Stock. Failure to give notice in accordance with this Section 9.4 shall not render such action ultra vires, illegal or invalid.

9.5. *Taxes.* The Corporation shall pay all documentary, stamp or other transactional taxes and charges attributable to the issuance or delivery of shares of stock of the Corporation upon conversion of any shares of Series A-1 Preferred Stock;

provided, however, 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 shares in a name other than that of the holder of the shares of Series A-1 Preferred Stock in respect of which such shares are being issued.

9.6. *Reservation of Shares.* The Corporation shall at all times reserve and keep available, free from preemptive rights, unissued or treasury shares of Common Stock sufficient to effect the conversion of all of the issued and outstanding shares of Series A-1 Preferred Stock.

10. *Restrictions and Limitations.*

10.1 So long as any shares of Series A-1 Preferred Stock are issued and outstanding, the Corporation shall not, without first having obtained the affirmative vote or written consent of the holders of a majority of the outstanding shares of Series A-1 Preferred Stock and Series A-2 Preferred Stock, voting together as a single class, amend the Articles of Incorporation (whether by merger, consolidation or otherwise) or the Bylaws of the Company to adversely affect the rights of the holders of Series A-1 Preferred Stock.

10.2 In addition to the rights under II.10.3, and unless otherwise required by applicable law, so long as at least 61,000 shares of Series A-1 Preferred Stock are issued and outstanding, the Corporation shall not, without first having obtained the affirmative vote or written consent of the holders of at least two-thirds of the outstanding shares of Series A-1 Preferred Stock, do any of the following; provided that Sections 10.2.1 through 10.2.17, inclusive, may be effected without a vote of the holders of Series A-1 Preferred Stock if, and only if, the stated action(s) therein is (are) approved by the Board of Directors including the affirmative vote of the Series A-1 Director:

10.2.1 liquidate, dissolve or wind-up the business and affairs of the Corporation, effect any Liquidation Event, or consent to any of the foregoing;

10.2.2 amend, alter or repeal any provision of the Articles of Incorporation or Bylaws of the Corporation;

10.2.3 create, or authorize the creation of, any additional class or series of capital stock or any other security, including those convertible into or exercisable for any equity security, unless the same ranks junior to the Series A-1 Preferred Stock and Series A-2 Preferred Stock; or increase the authorized number of shares of the Series Preferred Stock; or increase the authorized number of shares of any additional class or series of capital stock unless the same ranks junior to the Series A-1 Preferred Stock and Series A-2 Preferred Stock with respect to the distribution of assets

on the liquidation, dissolution or winding up of the Corporation, the payment of dividends and redemption rights;

10.2.4 increase or decrease the number of authorized shares of Common Stock, Series Preferred Stock or option pool or increase the number of shares reserved under the Corporation's incentive stock option plans;

10.2.5 create any debt security, bond, note or other obligation convertible into, exchangeable for, or having option rights to purchase shares of stock having rights on parity with or senior to the Series A-1 Preferred Stock or Series A-2 Preferred Stock;

10.2.6 purchase or redeem (or permit any subsidiary to purchase or redeem) or pay any dividend or make any distribution on, any shares of capital stock or equity security of the Corporation, or declare any of the foregoing, other than (i) redemptions of or dividends or distributions on the Series A-1 Preferred Stock or Series A-2 Preferred Stock as expressly authorized herein and (ii) repurchases of stock from former employees, officers, directors, consultants or other persons who performed services for the Corporation or any subsidiary in connection with the cessation of such employment or service at the lower of the original purchase price or the then-current fair market value thereof;

10.2.7 create or authorize the creation of any debt security;

10.2.8 increase or decrease the authorized number of directors constituting the Board of Directors;

10.2.9 make or authorize public offerings of securities by the Corporation or its subsidiaries;

10.2.10 change the nature of the Corporation's business;

10.2.11 enter into any acquisitions by the Corporation or joint ventures in excess of \$1,000,000 in any 12-month period;

10.2.12 enter into any material credit facilities or issue any debt in excess of \$1,000,000;

10.2.13 enter into any contract or agreement with any stockholder or any affiliate of a stockholder;

10.2.14 hire, establish or change the compensation plan or issue new options or shares to any member of the executive management;

10.2.15 enter into any type of transaction that might result in change of ownership of the intellectual property of the Corporation (other than ordinary course of business, non-exclusive licenses);

10.2.16 enter into, waive or modify any provision of its stockholders' agreement, registration rights agreement or any similar type of equity agreement; or

10.2.17 declare bankruptcy, dissolve, voluntarily liquidate or voluntarily wind-up the affairs of the Corporation.

10.3 So long as any shares of Series A-1 and/or Series A-2 Preferred Stock are issued and outstanding, the Corporation shall not, without having first obtained the affirmative vote or written consent of the holders of at least a majority of the outstanding shares of Series A-1 Preferred Stock and Series A-2 Preferred Stock, voting together as a single class, effectuate any Liquidation Event.

10.4 Further, notwithstanding any provision to the contrary otherwise contained in the Corporation's Articles of Incorporation, the Corporation shall not, by amendment of its Articles of Incorporation or through any Liquidation Event or other reorganization, transfer of assets, consolidation, merger, liquidation, dissolution, issue or sale of securities, agreement or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed under the Articles of Incorporation by the Corporation but shall at all times in good faith assist in the carrying out of all the provisions set forth in the Articles of Incorporation and in the taking of all such action as may be necessary or appropriate in order to protect the rights of the holders of the shares of Series A-1 Preferred Stock against impairment. Without limitation of the foregoing, the Corporation shall take such action as shall be necessary or appropriate, to the extent reasonably within its control, to remove promptly any impediments to its ability to redeem the shares of A Preferred Stock under the circumstances contemplated by Section 4 hereof. Any successor to the Corporation shall agree, as a condition to such succession, to carry out and observe the obligations of the Corporation under the Articles of Incorporation with respect to the shares of Series A-1 Preferred Stock.

III. SERIES A-2 PREFERRED STOCK

1. *Description of Amount and Stated Value.* The Series A-2 Preferred Stock is issuable solely in whole shares and shall entitle the holder thereof to exercise the voting rights, to participate in distributions and to have the benefits of all other rights of holders of the Series A-1 Preferred Stock as set forth herein. The number of shares which

shall constitute such series shall be 100,000 shares, par value \$10.00 per share. The Series A-2 Preferred Stock shall rank on parity with the Series A Preferred Stock and Series A-1 Preferred Stock and shall rank senior to all other shares of the Corporation with respect to liquidation rights. The issuance price of Series A-2 Preferred Stock shall be \$10.00 per share (the "Original Series A-2 Purchase Price") (such amount shall be adjusted appropriately for stock splits, stock dividends, recapitalizations and the like with respect to the Series A-2 Preferred Stock). The issue date of the first share of Series A-2 Preferred Stock by the Corporation shall hereinafter be referred to as the "Original Series A-2 Issue Date".

2. *No Dividends.* No dividends shall be payable on the Series A-2 Preferred Stock.

3. *Rights on Liquidation, Dissolution, or Winding up.*

3.1 In the event of any liquidation, dissolution or winding up of the Corporation, the holders of shares of the Series A-2 Preferred Stock then issued and outstanding shall be entitled to be paid out of the assets of the Corporation available for distribution to its stockholders, whether from capital, surplus or earnings, before any payment shall be made to the holders of shares of the Common Stock or of shares of any other class or series of stock of the Corporation other than the Series A Preferred Stock and the as-if-converted to Common Stock of the Series A-1 Preferred Stock, an amount equal to the greater of (a) the Market Value of the Series A-2 Preferred Stock (as determined pursuant to Section 4.3, below) without regard to minority or illiquidity discounts, or (b) two (2) times the Original Series A-2 Purchase Price until September 10, 2008 and thereafter an amount equal to three (3) times the Original Series A-2 Purchase Price (the "Series A-2 Liquidation Preference"). If, upon any liquidation, dissolution or winding up of the Corporation, the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of shares of the A Preferred Stock the full amounts to which they shall respectively be entitled, the holders of shares of the A Preferred Stock shall receive all of the assets of the Corporation available for distribution and each such holder of shares of the A Preferred Stock shall share ratably in any distribution in the proportion which the amount payable to each such holder in respect of the shares of A Preferred Stock owned by him bears to the aggregate of all amounts payable to the holders of the A Preferred Stock. After payment shall have been made to the holders of shares of the A Preferred Stock of the full amount to which they shall be entitled, as aforesaid, the remaining assets and funds of the Corporation available for distribution to its stockholders shall be distributed among the holders of shares of Common Stock then outstanding. The following events ("Liquidation Events") shall be considered a liquidation under this Section:

3.1.1 any consolidation or merger of the Corporation or its subsidiaries with or into any other corporation or other entity or person, or any other

corporate reorganization, in which the stockholders of the Corporation immediately prior to such consolidation, merger or reorganization own less than a majority of the Corporation's voting power immediately after such consolidation, merger or reorganization, or any transaction or series of related transactions to which the Corporation is or its stockholders are a party in which 50% or more of the Corporation's outstanding voting power is transferred (an "Acquisition"); or

3.1.2 a sale, lease, license or other disposition of all or substantially all of the assets of the Corporation or its subsidiaries (an "Asset Transfer" and, together with an Acquisition, a "Liquidation Event").

3.2 In connection with any Liquidation Event which involves the payment of cash and non-cash consideration, the holders of Series A-2 Preferred Stock shall, on the effective date of such Liquidation Event, be paid the amounts due to such holders in respect of their Series A-2 Preferred Stock under Section 3.1 in the same combination and proportion of cash and such non-cash consideration as is payable to the holders of Common Stock, except as may be otherwise elected by the holders of a majority of the outstanding shares of Series A-2 Preferred Stock. Any securities or other non-cash consideration to be delivered to the holders of the Series A-2 Preferred Stock upon any Liquidation Event shall be valued as follows: (a) if traded on a national securities exchange or the NASDAQ National Market System, the value shall be deemed to be the average of the closing prices of the securities on such exchange or system over the twenty (20) trading days preceding the consummation of such Liquidation Event or (b) if there is no active public market, the value shall be the fair market value thereof, as determined in good faith by resolution of the Board of Directors of the Corporation and the holders of a majority of the outstanding shares of Series A-2 Preferred Stock.

3.3 Prior to the occurrence of any Liquidation Event, the Corporation will furnish each holder of shares of Series A-2 Preferred Stock notice in accordance with Section 11 hereof, together with a certificate prepared by the chief financial officer of the Corporation describing in reasonable detail the facts of such Liquidation Event, stating in reasonable detail the amount per share of Series A-2 Preferred Stock each holder of Series A-2 Preferred Stock would receive pursuant to the provisions of Section 3.1 hereof and stating in reasonable detail the facts upon which such amount was determined and describing in reasonable detail all material terms of such Liquidation Event, including, without limitation, the consideration to be delivered in connection with such Liquidation Event, the valuation of the Corporation at the time of such Liquidation Event and the identities of the parties to the Liquidation Event.

4. Redemption.

4.1. At any time after the fifth anniversary of the Original Series A-2 Issue Date, the holders in interest of at least two-thirds of the then outstanding Series A-1/A-2 Preferred Stock, voting together as a single class, may notify the Corporation in writing (the "Holder Redemption Notice") of their election to require the Corporation to redeem their shares of A Preferred Stock.

4.2. Promptly following receipt of the Holder Redemption Notice, the Corporation shall notify the holders of A Preferred Stock of their right to have their shares redeemed. The electing holders of A Preferred Stock (the "A Redeeming Holders," and to the extent such holders are holders of Series A-2 Preferred Stock, the "Series A-2 Redeeming Holders" and, together with holders who are holders of Series A-1 Preferred Stock, the "Series A-1/A-2 Redeeming Holders") may elect to sell to the Corporation all or a portion of their shares of A Preferred Stock by delivering to the Corporation written notice within thirty (30) days after the receipt of the foregoing notice from the Corporation, which shall specify the number of such shares of A Preferred Stock to be redeemed (the "A Redemption Shares," and to the extent such A Preferred Stock is Series A-2 Preferred Stock, the "Series A-2 Redemption Shares"). The closing date (the "A Redemption Date") shall be fixed by the Corporation and shall not be less than 10 nor more than 30 days after the receipt by the Corporation of the foregoing notice from the holder of A Preferred Stock. The redemption price for each Series A-2 Redemption Share shall be the greater of (i) the Series A-2 Liquidation Preference or (ii) the Market Value (as determined below) of a share of the Series A-2 Preferred Stock (such sum being hereinafter referred to as the "Series A-2 Redemption Price").

4.3. The Market Value of the as-if-converted to Common Stock of the Series A-2 Redemption Shares shall be determined as follows:

4.3.1. if the securities are then traded on a national securities exchange, the NASDAQ National Market System (or a similar national quotation system) or the NASDAQ SmallCap Market, then the value shall be deemed to be the average of the closing prices of the securities on such exchange or system over the thirty (30) day period ending three (3) days prior to the A Redemption Date;

4.3.2. if actively traded over-the-counter, then the value shall be deemed to be the average of the closing bid prices over the thirty (30) day period ending three (3) days prior to the A Redemption Date; or

4.3.3. if there is no active public market, the Corporation and the Series A-1/A-2 Redeeming Holders shall attempt in good faith to agree on the Market Value. Any agreement reached by such persons shall be final and binding on all

parties hereto. If such persons are unable to reach such agreement within thirty (30) days after the giving of any Holder Redemption Notice, a disinterested appraisal firm that is a member of a recognized professional association reasonably acceptable to the Corporation and the holders of at least a majority of the Series A-1/A-2 Redeeming Holders shall determine Market Value as set forth below. If the parties are unable to agree on an appraisal firm within ten (10) days after the delivery of the Holder Redemption Notice, a firm shall be selected by lot from the top-tier investment banking firms, after the Corporation and the Series A-1/A-2 Redeeming Holders have each eliminated one such firm (the "*Series A-1/A-2 Appraisal Firm*"). The Series A-1/A-2 Appraisal Firm shall then make a determination of the Market Value, and, using such determination of Market Value, shall calculate the Market Value of one (1) share of Series A-2 Preferred Stock (the "*Series A-2 Appraised Price*"). The selection and determination of the Series A-1/A-2 Appraisal Firm shall be final and binding upon all parties. In the event that the Series A-2 Appraised Price is greater than the Market Value, as first determined by the Corporation, by ten percent (10%) or more, then the Corporation shall pay all costs of the Series A-1/A-2 Appraisal Firm. In the event that the Series A-2 Appraised Price is greater than the Market Value, as first determined by the Corporation, by less than ten percent (10%), then the expenses of the Series A-1/A-2 Appraisal Firm shall be borne equally by the Corporation and the A Redeeming Holders.

4.4. For purposes of Section 4.3.3 above, "*Market Value*" means the fair market value of the Corporation's entire common equity on a fully-diluted basis (assuming the exercise of all warrants, options or other rights to acquire Common Stock and the payment of the exercise price therefore, and the conversion of all securities convertible directly or indirectly into Common Stock) determined on a going concern basis as between a willing buyer and a willing seller and taking into account all relevant factors determinative of value but not taking into account discounts for minority status or lack of liquidity.

4.5. The Corporation shall purchase, and the A Redeeming Holders shall sell, the A Redemption Shares, in three (3) equal installments (each an "*A Redemption Payment*"), the first to occur on the A Redemption Date, the second to occur six (6) months from the A Redemption Date and the third to occur twelve (12) months from the A Redemption Date (each, an "*A Redemption Closing*"). The Corporation shall notify in writing all the holders in interest of the then outstanding A Preferred Stock of the date and place of each A Redemption Closing at least seven (7) days prior to such A Redemption Closing.

4.6. At each A Redemption Closing, the A Redeeming Holders shall deliver to the Corporation certificates representing one-third (1/3) of the A Redemption Shares held by such A Redeeming Holder. If less than all of the shares represented by such certificate are redeemed, then the Corporation shall promptly issue

a new certificate representing the unredeemed shares. The Corporation shall deliver to each Series A-2 Redeeming Holder the Series A-2 Redemption Price for each share of Series A-2 Preferred Stock to be sold to the Corporation at each A Redemption Closing in cash (by cashier's or certified check or by wire transfer of immediately available funds to an account designated by such holder). If on any date on which shares of A Preferred Stock are to be redeemed, funds of the Corporation legally available therefore shall be insufficient to redeem all of the A Redemption Shares required to be redeemed as provided for herein on such date, funds to the extent legally available to redeem such A Redemption Shares shall be used for such purpose and the Corporation shall effect such redemption pro rata according to the number of A Redemption Shares then held by each A Redeeming Holder. At any time thereafter when additional funds of the Corporation are legally available for the redemption of such A Redemption Shares, such funds will immediately be used to redeem the balance of the shares which the Corporation has become obligated to redeem on such A Redemption Date but which it has not redeemed at, with respect to the Series A-2 Redemption Shares, the Series A-2 Redemption Price as provided in Section 4.7 below. Any additional funds will be distributed prorata among all A Redeeming Shares. Any shares of Series A-2 Preferred Stock which have not been redeemed shall remain outstanding and entitled to all the rights and preferences provided herein.

4.7. If, on any date on which shares of A Preferred Stock are to be redeemed, funds of the Corporation legally available therefore shall be insufficient to redeem all of the A Redemption Shares required to be redeemed as provided for herein on such date or (b) the Corporation otherwise fails to make an A Redemption Payment in full pursuant to Section 4.6 above (each, a "Default"), the shares of A Preferred Stock not redeemed shall remain outstanding and entitled to all the rights and preferences provided herein. In addition, upon a Default, (i) notwithstanding any other provision of the Articles of Incorporation, the size of the Board of Directors shall immediately be increased such that the number of newly created directorships plus the number of representatives of the Series A-1/ A-2 Preferred Stock on the Board of Directors equals a majority of the Board of Directors and (ii) the holders in interest of at least a majority of the then outstanding Series A-1/ A-2 Preferred Stock, voting together as a single class, shall have the right to (in their sole discretion) elect such number of additional persons to the Board of Directors such that a majority of the directors are representatives of the A Preferred Stock.

4.8. Whenever under the provisions of Section 4.7 the right shall have accrued to the holders of the Series A-1/ A-2 Preferred Stock to elect a majority of the directors as specified herein, the Board of Directors shall immediately call a special meeting of the stockholders for the election of directors, to be held upon not less than ten (10) nor more than twenty (20) days' notice to such stockholders. If such notice of meeting is not given within the time as herein required, the holders in interest of at least a majority of the then outstanding Series A-1/ A-2 Preferred Stock may call such a

meeting and for such purpose shall have access to the stock books and records of the Corporation. At any meeting so called or at any other meeting held while the holders of the Series A-1/A-2 Preferred Stock shall have the voting power provided in Section 4.7, the holders of at least a majority of the then outstanding shares of Series A-1/A-2 Preferred Stock present in person or by proxy or voting by written consent shall be sufficient to constitute a quorum for the election of directors as herein provided. In the case of any vacancy in the office of a director occurring among the directors elected by the holders of Series A-1/A-2 Preferred Stock, the remaining directors so elected by the holders of the Series A-1/A-2 Preferred Stock may by affirmative vote of a majority thereof (or the remaining director so elected if there be but one (1)) elect a successor or successors to hold office for the unexpired term of the director or directors whose place or places shall be vacant, provided, that if there are no remaining directors so elected, the vacancies may be filled by the affirmative vote of the holders of at least a majority of the then outstanding shares of Series A-1/A-2 Preferred Stock, voting together as a single class, given either at a special meeting of such stockholders duly called for that purpose or pursuant to a written consent of such stockholders. Any directors who shall have been elected by the holders of the Series A-1/A-2 Preferred Stock pursuant to this Section 4.8 may be removed, with or without cause, during the aforesaid term of office by the affirmative vote of at least a majority of the then outstanding shares of Series A-1/A-2 Preferred Stock, voting together as a single class, given either at a special meeting of stockholders duly called for that purpose or pursuant to a written consent of stockholders, and any vacancy thereby created may be filled by the holders of Series A-1/A-2 Preferred Stock, voting together as a single class, represented at such meeting or pursuant to such written consent.

4.9. For the purpose of determining whether funds are legally available for redemption of the A Redemption Shares as provided herein, the Corporation shall, to the extent permitted by law, value its assets at the highest amount determined in good faith by the Corporation's independent accounting firm. From and after the A Redemption Date, unless there shall have been a Default, all rights of the Series A-2 Redeeming Holders (except the right to receive the Series A-2 Redemption Price) shall cease with respect to the shares to be redeemed on such A Redemption Date, and such shares shall not thereafter be transferred on the books of the Corporation or be deemed to be outstanding for any purpose whatsoever.

5. *Voting.* Each holder of Series A-2 Preferred Stock shall be entitled to the number of votes equal to the number of shares of Common Stock into which the shares of Series A-2 Preferred Stock held of record by such holder are convertible (as adjusted from time to time pursuant to Section 8 and Section 9.1 hereof), at each meeting of stockholders of the Corporation (and written actions of stockholders in lieu of meetings) with respect to any and all matters presented to the stockholders of the Corporation for their action or consideration. Except as provided by law and by other parts of the Articles of Incorporation, the holders of Series A-2 Preferred Stock shall

vote, when entitled hereunder, together with the holders of Series A Preferred Stock, Series A-1 Preferred Stock and the Common Stock as a single class. To the extent the Series A Preferred Stock or Series A-1 Preferred Stock or Series A-2 Preferred Stock is entitled to more or less than 1 vote for any share, on any matter, every reference in the Articles of Incorporation to a majority or other proportion of stock, voting stock, or shares shall refer to such majority or other proportion of the votes of such stock, voting stock or shares.

6. *Conversion*

6.1. *Conversion by Series A-2 Preferred Stockholders.*

6.1.1. The holder of any shares of the Series A-2 Preferred Stock shall have the right, at such holder's option except as provided below, at any time and from time to time to convert all or any number of such shares of Series A-2 Preferred Stock into such number of fully paid and nonassessable shares of Common Stock as shall be provided herein.

6.1.2. The holder of any shares of Series A-2 Preferred Stock may exercise the conversion right provided in this Section 6.1 by giving written notice (the "Series A-2 Conversion Notice") to the Corporation stating the number of shares of Series A-1 Preferred Stock to be converted (the "Series A-2 Conversion Shares"), the name or names in which the stock certificate or stock certificates for the shares of Common Stock are to be issued and the address to which such certificates shall be delivered. The Series A-2 Conversion Notice shall be accompanied by the stock certificate or stock certificates representing the Series A-2 Conversion Shares, duly endorsed to the Corporation. The number of shares of Common Stock that shall be issuable upon conversion of the Series A-2 Conversion Shares shall equal the Original Series A-2 Purchase Price for the Series A-2 Conversion Shares divided by the Series A-2 Conversion Price in effect at the time of conversion, as such Series A-2 Conversion Price may have been adjusted pursuant to Sections 8 and 9.1 hereof.

6.1.3. Conversion shall be deemed to have been effected on the date the Series A-2 Conversion Notice is given (the "Series A-2 Conversion Date"). Within 10 business days after receipt of the Series A-2 Conversion Notice, the Corporation shall issue and deliver by hand against a signed receipt therefore or by United States registered mail, return receipt requested, to the address designated by the holder of the Series A-2 Conversion Shares in the Series A-2 Conversion Notice, a stock certificate or stock certificates of the Corporation representing the number of shares of Common Stock to which such holder is entitled. In the event that only a portion of the number of shares of Series A-2 Preferred Stock represented by a stock certificate surrendered for conversion shall be Series A-2 Conversion Shares, the Corporation shall issue and deliver in the manner aforesaid to the holder of the stock certificate so

surrendered for conversion, at the expense of the Corporation, a new stock certificate for the number of unconverted shares of Series A-2 Preferred Stock.

6.2. *Automatic Conversion Upon Qualified Public Offering.*

6.2.1. If the Corporation shall consummate a Qualified Public Offering (as hereinafter defined), upon the date of the declaration or order of effectiveness (the "Effective Date") of such Qualified Public Offering, all, but not less than all, of the outstanding shares of the Series A-2 Preferred Stock shall automatically convert into such number of fully paid and nonassessable shares of Common Stock as shall be equal to the Original Series A-2 Purchase Price for the Series A-1 Preferred Stock issued and outstanding on the day immediately preceding the Effective Date divided by the Series A-2 Conversion Price in effect at the close of business on the day immediately preceding the Effective Date, as such Series A-2 Conversion Price may have been adjusted pursuant to Sections 8 and 9.1 hereof, without any further action by the holders of such shares and whether or not the certificates representing such shares of Series A-2 Preferred Stock are surrendered to the Corporation or its transfer agent. On the Effective Date, all rights with respect to the shares of Series A-2 Preferred Stock so converted shall terminate, except any of the rights of the holders thereof upon surrender of their certificate or certificates therefore or delivery of an Affidavit of Loss thereof to receive certificates for the number of shares of Common Stock into which such shares of Series A-2 Preferred Stock have been converted.

6.2.2. The term "Qualified Public Offering" shall mean any offering by the Corporation of shares of Common Stock (whether for the account of the Corporation or for the account of one or more shareholders of the Corporation) pursuant to a registration effected by preparing and filing a registration statement in compliance with the Securities Act of 1933 (the "Act") and the declaration or ordering of effectiveness of such registration statement, other than a registration on Form S-1 or S-8 relating solely to employee stock option or purchase plans or on Form S-14 relating solely to an offering under Rule 145 promulgated under the Act; provided, however, that the shares of Common Stock offered pursuant to such offering shall be offered for a price per share equal to or greater than \$6.00 per share (appropriately adjusted for subdivisions and combinations of shares of Common Stock and prior to underwriting commissions and expenses) and aggregate gross proceeds of not less than \$20,000,000.

6.2.3. Within 10 business days after the Effective Date, the Corporation shall issue and deliver by hand against a signed receipt therefore or by United States registered mail, return receipt requested, to the holder of the shares of the Series A-2 Preferred Stock so converted a stock certificate or stock certificates of the Corporation representing the number of shares of Common Stock to which such holder is entitled.

6.3 *Automatic Conversion Upon Election of Holders of a Majority of Outstanding Shares of Series A-1/A-2 Preferred Stock.*

6.3.1 If the holders of at least a majority of the then outstanding shares of Series A-1/A-2 Preferred Stock, voting together as a single class, elect in writing to convert their shares of A Preferred Stock into Common Stock, then upon the date specified by the holders of Series A-1/A-2 Preferred Stock in such written election (the "Voluntary Group A Preferred Conversion Date"), all, but not less than all, of the outstanding shares of the Series A-2 Preferred Stock shall automatically convert into such number of fully paid and nonassessable shares of Common Stock as shall be equal to the Original Series A-2 Purchase Price for the Series A-2 Preferred Stock issued and outstanding on the day immediately preceding the Voluntary Group A Preferred Conversion Date divided by the Series A-2 Conversion Price in effect at the close of business on the day immediately preceding the Voluntary Group A Preferred Conversion Date, as such Series A-2 Conversion Price may have been adjusted pursuant to Sections 8 and 9.1 hereof, without any further action by the holders of such shares and whether or not the certificates representing such shares of Series A-2 Preferred Stock are surrendered to the Corporation or its transfer agent. On the Voluntary Group A Preferred Conversion Date, all rights with respect to the shares of Series A-2 Preferred Stock so converted shall terminate, except any of the rights of the holders thereof upon surrender of their certificate or certificates therefore or delivery of an Affidavit of Loss thereof to receive certificates for the number of shares of Common Stock into which such shares of Series A-2 Preferred Stock have been converted.

6.3.2 Within 10 business days after the Voluntary Group A Preferred Conversion Date, the Corporation shall issue and deliver by hand against a signed receipt therefore or by United States registered mail, return receipt requested, to the holder of the shares of the Series A-2 Preferred Stock so converted a stock certificate or stock certificates of the Corporation representing the number of shares of Common Stock to which such holder is entitled.

6.4 *Fractional Shares.* The Corporation shall not be obligated to deliver to any holder of shares of a series of Series A-2 Preferred Stock any fractional share of Common Stock issuable upon any conversion of such shares (after aggregating all shares of Common Stock into which all shares of Series A-1 Preferred Stock held by each holder could be converted), but in lieu thereof may make a cash payment in respect thereof in any manner permitted by law.

6.5 *Other Applicable Sections.* The provisions of Sections 8 and 9 of this Article shall be applicable to the conversion rights provided in this Section 6.

7. *Preemptive Rights.* The holders of the shares of Series A-2 Preferred Stock shall have no common law preemptive rights.

8. *Series A-2 Conversion Price.*

8.1. The initial Series A-2 Conversion Price at which shares of Common Stock shall be deliverable upon conversion of Series A-2 Preferred Stock without payment of additional consideration by the holder thereof (the "Series A-2 Conversion Price") shall be \$1.111, such that each share of Series A-2 Preferred Stock shall initially be convertible into nine (9) shares of Common Stock. The Series A-2 Conversion Price shall be subject to adjustment in accordance with and at the times provided in this Section 8 and Section 9.1.

8.2. *Adjustments to Series A-2 Conversion Price for Diluting Issues:*

8.2.1. *Special Definitions.* For purposes of this Section 8.2, the following definitions shall apply:

8.2.1.1. "*Option*" shall mean rights, options or warrants to subscribe for, purchase or otherwise acquire Common Stock or Convertible Securities (as defined below) or restricted stock, excluding options granted to or shares of restricted stock acquired by employees, directors or consultants of the Corporation pursuant to an option plan or other compensation arrangement adopted by the Board of Directors providing for the authorization and reservation of up to 747,500 shares of Common Stock (which number shall include the number of shares or shares subject to options outstanding on the Original Series A Issue Date), as adjusted for any Recapitalizations, with respect to such shares and any shares issued upon exercise of such options (such excluded options and shares, the "*Reserved Option Shares*").

8.2.1.2. "*Convertible Securities*" shall mean any evidences of indebtedness, shares or other securities (other than Options) directly or indirectly convertible into or exchangeable for Common Stock.

8.2.1.3. "*Additional Shares of Common Stock*" shall mean all shares of Common Stock issued (or, pursuant to Section 8.2.3 below, deemed to be issued) by the Corporation after the Original Series A-2 Issue Date, other than:

(i) shares of Common Stock issued or issuable upon a Qualified Public Offering;

(ii) shares of Common Stock issued or issuable as a dividend or distribution on Series A Preferred Stock, Series A-1 Preferred Stock or Series A-2 Preferred Stock or upon the conversion of any thereof; and

(iii) the Reserved Option Shares.

8.2.2. *No Adjustment of Series A-2 Conversion Price.* No adjustment in the number of shares of Common Stock into which the shares of Series A-2 Preferred Stock are convertible shall be made, by adjustment in the applicable Series A-2 Conversion Price thereof, unless the consideration per share (determined pursuant to Section 8.2.5) for an Additional Share of Common Stock issued or deemed to be issued by the Corporation is less than the applicable Series A-2 Conversion Price in effect on the date of, and immediately prior to, the issue of such Additional Shares.

8.2.3. *Issue of Options and Convertible Securities Deemed Issue of Additional Shares of Common Stock.* If the Corporation at any time or from time to time after the Original Series A-2 Issue Date shall issue any Options or Convertible Securities (other than those options and convertible securities excluded from the definition of Additional Shares of Common Stock in Section 8.2.1.3) or shall fix a record date for the determination of holders of any class or series of securities entitled to receive any such Options or Convertible Securities, then the maximum number of shares of Common Stock (as set forth in the instrument relating thereto without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or, in the case of Convertible Securities and Options therefore, the conversion or exchange of such Convertible Securities, shall be deemed to be Additional Shares of Common Stock issued as of the time of such issue or, in case such a record date shall have been fixed, as of the close of business on such record date, provided that in any such case in which Additional Shares of Common Stock are deemed to be issued:

8.2.3.1. no further adjustment in the Series A-2 Conversion Price shall be made upon the subsequent issue of Convertible Securities or shares of Common Stock upon the exercise of such Options or conversion or exchange of such Convertible Securities and, upon the expiration of any such Option or the termination of any such right to convert or exchange such Convertible Securities, the Series A-2 Conversion Price then in effect hereunder shall forthwith be increased (but not to exceed the Series A-2 Conversion Price on the Original Series A-2 Issue Date) to the Series A-2 Conversion Price which would have been in effect at the time of such expiration or termination had such Options or Convertible Securities, to the extent outstanding immediately prior to such expiration or termination, never been issued, and the Common Stock issuable thereunder shall no longer be deemed to be outstanding; and

8.2.3.2. if such Options or Convertible Securities by their terms provide, with the passage of time or otherwise, for any increase or decrease in the consideration payable to the Corporation, or increase or decrease in the number of shares of Common Stock issuable, upon the exercise, conversion or exchange thereof, the Series A-2 Conversion Price computed upon the original issue thereof (or upon the

occurrence of a record date with respect thereto), and any subsequent adjustments based thereon, shall, upon any such increase or decrease becoming effective, be recomputed to reflect such increase or decrease insofar as it affects such Options or the rights of conversion or exchange under such Convertible Securities, provided that no readjustment pursuant to this clause 8.2.3.2 shall have the effect of increasing the Series A-2 Conversion Price to an amount which exceeds the lower of (i) the Series A-2 Conversion Price on the original adjustment date, or (ii) the Series A-2 Conversion Price that would have resulted from any issuance of Additional Shares of Common Stock between the original adjustment date and such readjustment date (but not to exceed the Series A-2 Conversion Price on the Original Series A-2 Issue Date).

8.2.4. *Adjustment of Series A-2 Conversion Price Upon Issuance of Additional Shares of Common Stock.* In the event the Corporation shall issue Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Section 8.2.3 without consideration or for a consideration per share less than the then applicable Series A-2 Conversion Price (the "Series A-2 Triggering Transaction"), then and in such event, (i) if the Series A-2 Triggering Transaction occurs on or prior to that date which is twelve (12) months following the Original Series A-2 Issue Date, the applicable Series A-2 Conversion Price shall be concurrently reduced to the consideration per share received by the Corporation at which the new shares are issued and (ii) if the Series A-2 Triggering Transaction occurs after that date which is twelve (12) months following the Original Series A-2 Issue Date, the applicable Series A-2 Conversion Price shall be reduced to a price (calculated to the nearest tenth of a cent) determined by multiplying such Series A-2 Conversion Price immediately prior to issuance of Additional Shares of Common Stock by a fraction having:

8.2.4.1. for numerator, the sum of (i) the Number of Common Shares Deemed Outstanding immediately prior to such issuance, plus (ii) the number of shares of Common Stock that the aggregate consideration received by the Corporation for such issuance would purchase at the Series A-2 Conversion Price; and

8.2.4.2. for denominator, the sum of (i) the Number of Common Shares Deemed Outstanding immediately prior to such issuance, plus (ii) the number of shares of Common Stock issued (or deemed to be issued hereunder) in connection with a Series A-2 Triggering Transaction.

8.2.4.3. The term "Number of Common Shares Deemed Outstanding" at any given time shall mean the sum of (i) the number of shares of Common Stock outstanding at such time, (ii) the number of shares of Common Stock issuable assuming conversion at such time of the Corporation's A Preferred Stock, and (iii) the number of shares of Common Stock deemed to be outstanding under Subsections 8.2.1.3(ii) and (iii).

8.2.5. *Determination of Consideration.* For purposes of this Section 8.2, the per share consideration received by the Corporation for the issue of any Additional Shares of Common Stock and shall be computed as follows:

8.2.5.1. *Cash and Property:* Such consideration shall:

(i) insofar as it consists of cash, be computed at the aggregate of cash received by the Corporation, excluding amounts paid or payable for accrued interest or accrued dividends;

(ii) insofar as it consists of property other than cash, be computed at the fair market value thereof at the time of such issue, as determined in good faith by the Board; and

(iii) in the event Additional Shares of Common Stock are issued together with other shares or securities or other assets of the Corporation for consideration which covers both, be the proportion of such consideration so received, computed as provided in clauses (i) and (ii) above, as determined in good faith by the Board.

8.2.5.2. *Options and Convertible Securities.* The consideration per share received by the Corporation for Additional Shares of Common Stock deemed to have been issued pursuant to Section 8.2.3, relating to Options and Convertible Securities, shall be determined by dividing

(i) the total amount, if any, received or receivable by the Corporation as consideration for the issue of such Options or Convertible Securities, plus the minimum aggregate amount of additional consideration (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such consideration) payable to the Corporation upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities, by

(ii) the maximum number of shares of Common Stock (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or the conversion or exchange of such Convertible Securities.

8.2.6. *Adjustment for Combinations or Consolidation of Common Stock.* If, at any time after the Original Series A-2 Issue Date the number of shares of

Common Stock outstanding are decreased by a combination of the outstanding shares of Common Stock, then following the record date fixed for such combination (or the date of such combination, if no record date is fixed), the applicable Series A-2 Conversion Price shall be increased so that the number of shares of Common Stock issuable on conversion of each share of Series A-2 Preferred Stock shall be decreased in proportion to such decrease in outstanding shares of Common Stock.

8.2.7. *Adjustment for Stock Dividends, Splits, Etc.* If the Corporation shall at any time after the Original Series A-2 Issue Date fix a record date for the subdivision, split-up or stock dividend of shares of Common Stock, then, following the record date fixed for the determination of holders of shares of Common Stock entitled to receive shares pursuant to such subdivision, split-up or dividend (or the date of such subdivision, split-up or dividend, if no record date is fixed), the Series A-2 Conversion Price shall be appropriately decreased so that the number of shares of Common Stock issuable on conversion of each share of Series A-2 Preferred Stock shall be increased in proportion to such increase in outstanding shares; provided, however, that the Series A-2 Conversion Price shall not be decreased at such time if the amount of such reduction would be an amount less than \$0.01, but any such amount shall be carried forward and reduction with respect thereto made at the time of and together with any subsequent reduction which, together with such amount and any other amount or amounts so carried forward, shall aggregate \$0.01 or more.

8.2.8. *Adjustment for Merger or Reorganization, Etc.* In case of any consolidation, recapitalization or merger of the Corporation with or into another corporation or the sale of all or substantially all of the assets of the Corporation to another corporation (other than a subdivision or combination provided for elsewhere in this Section 8 and other than a consolidation, merger or sale that is treated as a Liquidation Event pursuant to Section 3), each share of Series A-2 Preferred Stock shall thereafter be convertible into the kind and amount of shares of stock or other securities or property to which a holder of the number of shares of Common Stock of the Corporation deliverable upon conversion of such shares of Series A-2 Preferred Stock would have been entitled upon such consolidation, merger or sale; and, in such case, appropriate adjustment (as determined in good faith by the Board of Directors) shall be made in the application of the provisions in this Section 8 set forth with respect to the rights and interest thereafter of the holders of the shares of Series A-2 Preferred Stock, to the end that the provisions set forth in this Section 8 (including provisions with respect to changes in and other adjustments of the Series A-2 Conversion Price) shall thereafter be applicable, as nearly as reasonably may be, in relation to any shares of stock or other property thereafter deliverable upon the conversion of the shares of Series A-2 Preferred Stock.

9. *General Provisions Relating to Conversion.*

9.1. *Reorganization and Recapitalization.* The provisions of Section 8 shall similarly apply to successive reorganizations, reclassifications, consolidations, mergers, sales, exchanges, leases, transfers, or other dispositions or other share exchanges.

9.2. *No Reissuance of Series A-2 Preferred Stock.* Any share or shares of Series A-2 Preferred Stock cancelled or acquired by the Corporation by reason of redemption, purchase, conversion or otherwise shall be retired and shall not be subject to reissuance, and the capital of the Corporation shall be reduced by a corresponding amount.

9.3. *Notice of Adjustment.* Whenever the Series A-2 Conversion Price shall be adjusted as provided in Section 8 or Section 9 hereof, the Corporation shall prepare and send to each holder of shares of the Series A-2 Preferred Stock a statement, signed by the chief financial officer of the Corporation, showing in detail the facts requiring such adjustment and the Series A-2 Conversion Price that shall be in effect after such adjustment.

9.4. *Notice of Adjustment Events.* In the event the Corporation shall propose to take any action of the types described in Sections 8.1, 8.2, or 9.1 hereof, the Corporation shall give notice to each holder of shares of the Series A-2 Preferred Stock, which notice shall specify the record date, if any, with respect to any such action and the date on which such action is to take place. Such notice shall be given on or prior to the earlier of 30 days prior to the record date or the date on which such action shall be taken. Such notice shall also set forth such facts with respect thereto as shall be reasonably necessary to indicate the effect of such action (to the extent such effect may be known at the date of such notice) on the Series A-2 Conversion Price and the number, kind or class or series of shares or other securities or property which shall be deliverable or purchasable upon the occurrence of such action or deliverable upon conversion of shares of Series A-2 Preferred Stock. Failure to give notice in accordance with this Section 9.4 shall not render such action ultra vires, illegal or invalid.

9.5. *Taxes.* The Corporation shall pay all documentary, stamp or other transactional taxes and charges attributable to the issuance or delivery of shares of stock of the Corporation upon conversion of any shares of Series A-2 Preferred Stock; provided, however, 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 shares in a name other than that of the holder of the shares of Series A-2 Preferred Stock in respect of which such shares are being issued.

9.6. *Reservation of Shares.* The Corporation shall at all times reserve and keep available, free from preemptive rights, unissued or treasury shares of Common Stock sufficient to effect the conversion of all of the issued and outstanding shares of Series A-2 Preferred Stock.

10. *Restrictions and Limitations.*

10.1 So long as any shares of Series A-2 Preferred Stock are issued and outstanding, the Corporation shall not, without first having obtained the affirmative vote or written consent of the holders of a majority of the outstanding shares of Series A-1 Preferred Stock and Series A-2 Preferred Stock, voting together as a single class, amend the Articles of Incorporation (whether by merger, consolidation or otherwise) or the Bylaws of the Company to adversely affect the rights of the holders of Series A-2 Preferred Stock.

10.2 So long as any shares of Series A-1 and/or Series A-2 Preferred Stock are issued and outstanding, the Corporation shall not, without having first obtained the affirmative vote or written consent of the holders of at least a majority of the outstanding shares of Series A-1 Preferred Stock and Series A-2 Preferred Stock, voting together as a single class, effectuate any Liquidation Event.

10.3 Further, notwithstanding any provision to the contrary otherwise contained in the Corporation's Articles of Incorporation, the Corporation shall not, by amendment of its Articles of Incorporation or through any Liquidation Event or other reorganization, transfer of assets, consolidation, merger, liquidation, dissolution, issue or sale of securities, agreement or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed under the Articles of Incorporation by the Corporation but shall at all times in good faith assist in the carrying out of all the provisions set forth in the Articles of Incorporation and in the taking of all such action as may be necessary or appropriate in order to protect the rights of the holders of the shares of Series A-2 Preferred Stock against impairment. Without limitation of the foregoing, the Corporation shall take such action as shall be necessary or appropriate, to the extent reasonably within its control, to remove promptly any impediments to its ability to redeem the shares of A Preferred Stock under the circumstances contemplated by Section 4 hereof. Any successor to the Corporation shall agree, as a condition to such succession, to carry out and observe the obligations of the Corporation under the Articles of Incorporation with respect to the shares of Series A-2 Preferred Stock.

SECOND: The foregoing amendment was approved by the shareholders. The number of votes cast for the amendment by the shareholders was sufficient for approval, in accordance with Section 607.1006 of the Business Corporation Act. on Sept 6, 2007.

IN WITNESS WHEREOF, these Articles of Amendment have been executed by its duly authorized officer this 10th day of September, 2007.

CONSUMER HEALTH TECHNOLOGIES, INC.

By: Ronald C. Diegelman
Ronald C. Diegelman
President

9.6. *Reservation of Shares.* The Corporation shall at all times reserve and keep available, free from preemptive rights, unissued or treasury shares of Common Stock sufficient to effect the conversion of all of the issued and outstanding shares of Series A-2 Preferred Stock.

10. *Restrictions and Limitations.*

10.1 So long as any shares of Series A-2 Preferred Stock are issued and outstanding, the Corporation shall not, without first having obtained the affirmative vote or written consent of the holders of a majority of the outstanding shares of Series A-1 Preferred Stock and Series A-2 Preferred Stock, voting together as a single class, amend the Articles of Incorporation (whether by merger, consolidation or otherwise) or the Bylaws of the Company to adversely affect the rights of the holders of Series A-2 Preferred Stock.

10.2 So long as any shares of Series A-1 and/or Series A-2 Preferred Stock are issued and outstanding, the Corporation shall not, without having first obtained the affirmative vote or written consent of the holders of at least a majority of the outstanding shares of Series A-1 Preferred Stock and Series A-2 Preferred Stock, voting together as a single class, effectuate any Liquidation Event.

10.3 Further, notwithstanding any provision to the contrary otherwise contained in the Corporation's Articles of Incorporation, the Corporation shall not, by amendment of its Articles of Incorporation or through any Liquidation Event or other reorganization, transfer of assets, consolidation, merger, liquidation, dissolution, issue or sale of securities, agreement or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed under the Articles of Incorporation by the Corporation but shall at all times in good faith assist in the carrying out of all the provisions set forth in the Articles of Incorporation and in the taking of all such action as may be necessary or appropriate in order to protect the rights of the holders of the shares of Series A-2 Preferred Stock against impairment. Without limitation of the foregoing, the Corporation shall take such action as shall be necessary or appropriate, to the extent reasonably within its control, to remove promptly any impediments to its ability to redeem the shares of A Preferred Stock under the circumstances contemplated by Section 4 hereof. Any successor to the Corporation shall agree, as a condition to such succession, to carry out and observe the obligations of the Corporation under the Articles of Incorporation with respect to the shares of Series A-2 Preferred Stock.

SECOND: The foregoing amendment was approved by the shareholders. The number of votes cast for the amendment by the shareholders was sufficient for approval, in accordance with Section 607.1006 of the Business Corporation Act. on Sept 6, 2007.

IN WITNESS WHEREOF, these Articles of Amendment have been executed by its duly authorized officer this 10th day of September, 2007.

CONSUMER HEALTH TECHNOLOGIES, INC.

By: Ronald C. Diegelman
Ronald C. Diegelman
President