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Corporate Filing Menu

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**THIRD ARTICLES OF AMENDMENT
TO
ARTICLES OF INCORPORATION
OF
TRIPLE S&P, INC.**

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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Triple S&P, Inc. (the "Corporation"), a corporation organized and existing under the laws of the State of Florida, certifies as follows:

FIRST: The Corporation's name is: Triple S&P, Inc.

SECOND: The amendment to the Corporation's Articles of Incorporation set forth below was approved by the Board of Directors and shareholders of the Corporation pursuant to Section 607.0704 and Section 607.0821, Florida Statutes, by written consent of the Board of Directors and shareholders of the Corporation dated November 28, 2011. The number of votes cast for the amendment by the shareholders was sufficient for approval of the amendment.

THIRD: Article III of the Corporation's Articles of Incorporation is amended and restated in its entirety as follows:

ARTICLE III. CAPITAL STOCK

A. Generally

1. Authorized Capitalization.

(a) The total number of shares of all classes of capital stock that the Corporation has authority to issue is 10,000,000 shares, consisting of common stock and preferred stock as follows:

(i) 5,000,000 shares of Common Stock, \$0.01 par value per share (the "Common Stock").

(ii) 5,000,000 shares of Preferred Stock, \$0.01 par value per share (the "Preferred Stock"), of which 1,908,000 shares will be Series A Preferred Stock (the "Series A Preferred Stock"), 1,480,000 shares will be Series B Preferred Stock (the "Series B Preferred Stock"), and 1,612,000 shares will be undesignated.

2. Designations.

(a) **Preferred Stock.** The Preferred Stock may be issued from time to time by the Board of Directors as shares of one or more series. The description of shares of Series A Preferred Stock and Series B Preferred Stock is as set forth in Section B of this Article III. The description of shares of each other series of Preferred Stock, including any preferences, conversion and other rights, voting powers, restrictions, limitations as to dividends, qualifications, and terms and conditions of redemption, shall be as set forth in resolutions adopted by the Board of Directors, and articles of amendment shall be filed with the Florida Secretary of State as required by law to be filed with respect to issuance of such Preferred Stock, prior to the issuance of any shares of such series.

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Subject to the limitations and provisions set forth in these Articles of Incorporation, the Board of Directors is expressly authorized, at any time, by adopting resolutions providing for the issuance of, or providing for a change in the number of, shares of any particular series of Preferred Stock (other than the Series A Preferred Stock or the Series B Preferred Stock) and, if and to the extent from time to time required by law, by filing articles of amendment which are effective without shareholder action: (i) to increase or decrease the number of shares included in each series of Preferred Stock (other than the Series A Preferred Stock or the Series B Preferred Stock) or (ii) to establish in any one or more respects the designations, preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends, qualifications, or terms and conditions of redemption relating to the shares of each such series. Notwithstanding the foregoing, the Board of Directors shall not be authorized to change the right of holders of the Common Stock of the Corporation to vote one vote per share on all matters submitted for shareholder action. Without limiting the generality of the foregoing, the authority of the Board of Directors with respect to each series of Preferred Stock (other than the Series A Preferred Stock or the Series B Preferred Stock) shall include, but not be limited to, establishment of the following:

- (i) the number of shares constituting that series and the distinctive designation of that series;
- (ii) the annual dividend rate, if any, on shares of such series, the times of payment and the date from which dividends shall be accumulated, if dividends are to be cumulative;
- (iii) whether the shares of such series shall be redeemable and, if so, the redemption price and the terms and conditions of such redemption;
- (iv) the obligation, if any, of the Corporation to redeem shares of such series pursuant to a sinking fund;
- (v) whether shares of such series shall be convertible into, or exchangeable for, shares of stock of any other class or classes and, if so, the terms and conditions of such conversion or exchange, including the price or prices or the rate or rates of conversion or exchange and the terms of adjustment, if any;
- (vi) whether the shares of such series shall have voting rights, in addition to the voting rights provided by law, and, if so, the extent of such voting rights;
- (vii) the rights of the shares of such series in the event of voluntary or involuntary liquidation, dissolution or winding-up of the Corporation; and
- (viii) any other relative rights, powers, preferences, qualifications, limitations or restrictions thereof relating to such series.

In accordance with Section 607.0602, Florida Statutes, the Board of Directors shall determine all of the preferences, limitations, and relative rights for each series of Preferred Stock before the issuance of any shares of that series. The shares of Preferred Stock of any one series shall be identical with each other in such series in all respects except as to the dates from and after which dividends thereon shall cumulate, if cumulative.

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The following states the designations and the powers, privileges and rights, and the qualifications, limitations or restrictions in respect of each class of capital stock of the Corporation.

(b) **Common Stock.** Subject to all of the rights of the Preferred Stock as expressly provided herein, by law or by the Board of Directors pursuant to this Article III, the Common Stock of the Corporation shall possess all such rights and privileges as are afforded to capital stock by applicable law in the absence of any express grant of rights or privileges in the Corporation's Articles of Incorporation, including, but not limited to, the following rights and privileges:

(i) subject to Section B.1(d) of this Article III, dividends may be declared and paid or set apart for payment upon the Common Stock out of any assets or funds of the Corporation legally available for the payment of dividends;

(ii) the holders of Common Stock shall have the right to one vote per share held of Common Stock;

(iii) upon a Liquidation Event (as defined below), after making the payments required by Section B.2 of Article III, the net assets of the Corporation available for distribution shall be distributed pro-rata to the holders of the Common Stock and Preferred Stock in accordance with their respective rights and interest; and

(iv) the Common Stock does not have any redemption rights.

B. Preferred Stock

1. Dividends.

(a) **Rate.** The holders of record of shares of Series A Preferred Stock will be entitled to receive dividends (the "**Series A Dividends**") at a rate of eight percent (8%) per annum on the sum of \$1.00 per share plus accrued and unpaid Series A Dividends. The holders of record of shares of Series B Preferred Stock will be entitled to receive dividends (the "**Series B Dividends**," together with the Series A Dividends, the "**Preferred Dividends**") at a rate of eight percent (8%) per annum on the sum of \$0.50 per share plus accrued and unpaid Series B Dividends. The base amount on which the Corporation pays Series A Dividends (initially \$1.00 per share) and Series B Dividends (initially \$0.50 per share) will be adjusted as follows: If the Corporation at any time subdivides (by any stock split, stock dividend or otherwise) its outstanding shares of any series into a greater number of shares, the amount in effect immediately before the subdivision will be proportionately reduced, and conversely, if the outstanding shares of any series are combined into a smaller number of shares, the amount in effect immediately before the combination will be proportionately increased.

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

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(c) **Payment.** The Corporation shall pay the applicable accrued and unpaid Series A Dividends and Series B Dividends in one lump sum cash payment to the holders of Series A Preferred Stock and Series B Preferred Stock, respectively, on the following events: (1) a Conversion Date (as defined below), (2) a Redemption Date (as defined below, as to the redeemed shares only), or (3) a Liquidation Event (as defined below, actual or deemed). If Preferred Dividends cannot be paid in full, the Corporation shall first pay dividends to the maximum possible extent to the holders of the Series B Preferred Stock, then any remaining funds available for payment of Series A Dividends shall be paid to the maximum possible extent to the holders of Series A Preferred Stock. The applicable rate for the Series A Dividends and Series B Dividends will increase from eight (8%) per annum to eighteen percent (18%) per annum for any time period during which payment of the applicable Series A Dividend or Series B Dividend is due but unpaid. In the event the applicable Series A Dividend rate or the Series B Dividend rate becomes or is deemed to be usurious, such applicable rate shall be automatically reduced to the then legal maximum rate.

(d) **Priority to Junior Securities.** The Corporation shall not pay any dividends (except for common stock dividends) with respect to or redeem any shares of the Junior Securities (as defined below) if any Series A Preferred Stock or Series B Preferred Stock remains outstanding.

2. **Ranking; Preference on Liquidation.**

(a) **Ranking.** Except for the Series B Preferred Stock, the Series A Preferred Stock ranks senior to every other class or series of the Corporation's Common Stock and each other class and series of its Preferred Stock, whether already existing or later created (collectively, the "Series A Junior Securities"). The Series B Preferred Stock ranks senior to every other class or series of the Corporation's Common Stock and each other class and series of its Preferred Stock, whether already existing or later created, including the Series A Preferred Stock (collectively, the "Series B Junior Securities").

(b) **Payment on Liquidation.** If the Corporation liquidates, dissolves, or winds up its affairs (voluntarily or involuntarily) (a "Liquidation Event"), after paying or providing for payment of its debts and other liabilities, the Corporation shall pay to the holders of Series B Preferred Stock, before paying any amount to the holders of Series B Junior Securities, a cash amount for each share of Series B Preferred Stock equal to the Series B Liquidation Price, as defined below, plus, accrued and unpaid Series B Dividends (the "Series B Liquidation Preference"). If its assets to be distributed among the holders of Series B Preferred Stock on a Liquidation Event are insufficient to permit the Corporation to pay the full Series B Liquidation Preference for each share of Series B Preferred Stock, the Corporation shall distribute its assets among the holders of Series B Preferred Stock ratably based on the respective amounts otherwise payable to them.

After the Corporation pays in full the Series B Liquidation Preference required by the previous paragraph, the Corporation shall pay to the holders of Series A Preferred Stock, before paying any amount to the holders of Series A Junior Securities, a cash amount for each share of Series A Preferred Stock equal to the Series A Liquidation Price, as defined below, plus, accrued and unpaid Series A Dividends (the "Series A Liquidation Preference"). If the assets to be distributed among the holders of Series A Preferred Stock on a Liquidation Event are insufficient to permit the Corporation to pay the full Series A Liquidation Preference for each share of Series

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A Preferred Stock, the Corporation shall distribute its assets among the holders of Series A Preferred Stock ratably based on the respective amounts otherwise payable to them.

After the Corporation pays in full the Series B Liquidation Preference and the Series A Liquidation Preference, the remaining assets of the Corporation available for distribution to shareholders shall be distributed among the respective holders of Series B Preferred Stock, Series A Preferred Stock, and Common Stock, pro rata on the number of shares of Common Stock held by each holder (on an as-converted to Common Stock basis as to the respective holders of the Series B Preferred Stock and the Series A Preferred Stock). The Series B Preferred Stock holders' pro rata portion of the Corporation's remaining assets available for distribution to shareholders, after distribution of the Series B Liquidation Preference and the Series A Liquidation Preference, is the "Series B Participating Liquidation Return." The Series A Preferred Stock holders' pro rata portion of the Corporation's remaining assets available for distribution to shareholders, after distribution of the Series A Liquidation Preference and the Series B Liquidation Preference, is the "Series A Participating Liquidation Return."

(c) **Deemed Liquidation Event.** The following will, at the option of the holders of a majority of the then outstanding shares of Series A Preferred Stock and Series B Preferred Stock, each voting as a single class, be deemed to be a Liquidation Event for that series and trigger the Corporation's obligation to pay the Series A Liquidation Preference, Series B Liquidation Preference, Series A Participating Liquidation Return and the Series B Participating Liquidation Return, as applicable: (1) a merger or consolidation of the Corporation with or into one or more corporations or other entities that results in the exchange of 50% or more of the outstanding shares of any class of capital stock of the Corporation outstanding immediately before the merger or consolidation for securities or other consideration issued or paid by the other corporation; (2) the sale or transfer of all or substantially all of the assets of the Corporation; or (3) the resale by shareholders, in any three-year period, of Common Stock cumulatively constituting 49% or more of the shares of Common Stock outstanding as of the close of business on the first day on which the Series A Preferred Stock was initially issued. The Corporation shall notify the holders of Series A Preferred Stock and Series B Preferred Stock in writing (the "Liquidation Event Notice") not later than twenty (20) days before the shareholders' meeting called to approve the Liquidation Event, if any, or within twenty (20) days before closing of the transaction, whichever is earlier, and shall also notify the holders in writing of the final approval of the transaction. The first of these notices shall describe the material terms and conditions of the pending transaction and the provisions of this Section 2, and the Corporation shall thereafter give such holders prompt notice of any material changes. The option of the holders of Series A Preferred Stock and Series B Preferred Stock, voting together as a single class, to have the foregoing events treated as Liquidation Events may be exercised by written notice given to the Corporation by holders of a majority of the then outstanding shares of the applicable series of Preferred Stock within sixty (60) days of the notifying holders' receipt of the Liquidation Event Notice. If the requirements of this subsection (c) are not complied with in connection with the Liquidation Event, the Corporation shall either:

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

(ii) cancel such transaction that constituted a deemed Liquidation Event, in which event the rights, preferences and privileges of the respective holders of the Series A Preferred Stock and Series B Preferred Stock shall revert to and be the same as such

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rights, preferences and privileges existing immediately before the date of the first notice referred to in subsection (c).

(d) **Liquidation Price.** With respect to the Series A Preferred Stock, the "Series A Liquidation Price" will be the amount of \$1.00 per share (adjusted pursuant to subsection (e) below). With respect to the Series B Preferred Stock, the "Series B Liquidation Price" will be the amount of \$0.50 per share (adjusted pursuant to subsection (e) below).

(e) **Payment and Adjustment of the Liquidation Price.** The Corporation shall pay the Series A Liquidation Preference, Series B Liquidation Preference, Series A Participating Liquidation Return, and the Series B Participating Liquidation Return to the respective holders of Series A Preferred Stock and Series B Preferred Stock upon the earlier of (i) a Liquidation Event or (ii) within fifteen (15) days after the Corporation's receipt of notice from those holders of Series A Preferred Stock and Series B Preferred Stock of their option to have an event treated as a Liquidation Event under Section B.2(c) of this Article III. The Corporation shall pay interest to each respective holder of Series A Preferred Stock and Series B Preferred Stock at an annual rate of 18% on any part of the Series A Liquidation Preference, Series B Liquidation Preference, Series A Participating Liquidation Return, and the Series B Participating Liquidation Return, not paid when due. If the Corporation at any time subdivides (by any stock split, stock dividend or otherwise) its outstanding shares of Series A Preferred Stock into a greater number of shares, the Series A Liquidation Price in effect immediately before the subdivision will be proportionately reduced, and conversely, if the outstanding shares of Series A Preferred Stock are combined into a smaller number of shares, the Series A Liquidation Price in effect immediately before the combination will be proportionately increased. If the Corporation at any time subdivides (by any stock split, stock dividend or otherwise) its outstanding shares of Series B Preferred Stock into a greater number of shares, the Series B Liquidation Price in effect immediately before the subdivision will be proportionately reduced, and conversely, if the outstanding shares of Series B Preferred Stock are combined into a smaller number of shares, the Series B Liquidation Price in effect immediately before the combination will be proportionately increased.

3. **Redemption.**

(a) **Redemption Event.** Subject to the terms and conditions of this section, and at the times described below in this Section 3(a), (i) the holders of a majority of the then outstanding Series A Preferred Stock (the "Series A Electing Holders") may require the Corporation to redeem for cash its shares of Series A Preferred Stock, and the other participating holders of shares of Series A Preferred Stock, at the redemption price per share determined pursuant to subparagraph (d) of this Section 3 (the "Series A Redemption Price"), and (ii) the holders of a majority of the then outstanding Series B Preferred Stock (the "Series B Electing Holders") may require the Corporation to redeem for cash its shares of Series B Preferred Stock, and the other participating holders of shares of Series B Preferred Stock, at the redemption price per share determined pursuant to subparagraph (d) of this Section 3 (the "Series B Redemption Price"). The Corporation shall not redeem any series of Preferred Stock without the affirmative vote or prior written consent of the holders of a majority in interest of the then outstanding series of Preferred Stock having dividend rights or liquidation preferences superior to the series of redeemed Preferred Stock. For purposes of this Section 3, "Electing Holders" means either the Series A Electing Holders or the Series B Electing Holders, whichever is applicable at the time of reference. Upon receipt of notice from the Electing Holders, the Corporation shall within five (5) business days provide written notice (the "Redemption Notice") to all other holders of the applicable series of the Electing Holders' election so that the other holders of such series may elect

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to participate in the redemption. Any such other holders of such series who submit a substantially similar notice within twenty (20) days following receipt of the Redemption Notice shall be deemed to have the benefit of, and be subject to, the Redemption Notice upon the same terms applicable to the Electing Holders. At any time after October [REDACTED], 2016, the Electing Holders may require the Corporation to redeem up to one-third of the shares of such series of stock that they held as of that date. At any time after October [REDACTED], 2017, the Electing Holders may require the Corporation to redeem another one-third of the shares of such series of stock that they held as of October [REDACTED], 2016 (a total of up to two-thirds of the shares that they held as of October [REDACTED], 2016). At any time after October [REDACTED], 2018, the Electing Holders may require the Corporation to redeem all remaining shares of such series of stock that they still hold. During the period between December 30 and January 31 preceding each of the above dates, the Corporation shall notify each holder of Series A Preferred Stock and Series B Preferred Stock of the availability of this redemption option and specify the number of shares of Series A Preferred Stock and Series B Preferred Stock subject to the option and the respective Series A Redemption Price and Series B Redemption Price (to the extent such prices calculable). If the Corporation cannot redeem all shares of Series A Preferred Stock that are the subject of a redemption, the Corporation shall redeem those shares of Series A Preferred Stock ratably based on the respective amounts otherwise payable to the holders of redeemed Series A Preferred Stock. If the Corporation cannot redeem all shares of Series B Preferred Stock that are the subject of a redemption, the Corporation shall redeem those shares of Series B Preferred Stock ratably based on the respective amounts otherwise payable to the holders of redeemed Series B Preferred Stock. If the Corporation cannot redeem all of the Series A Preferred Stock and Series B Preferred Stock that is scheduled to be redeemed, the Corporation shall first redeem the Series B Preferred Stock to the maximum extent possible, and then redeem the Series A Preferred Stock to the maximum extent possible. The Corporation shall pay to each holder of redeemed Series A Preferred Stock and Series B Preferred Stock interest at an annual rate of 18% on any amount of the Series A Redemption Price and Series B Redemption Price, respectively, not paid when due.

(i) Notice from the Preferred Holder. The Corporation shall effectuate a required redemption within six months after the date of the Electing Holders' notice specifying the following: (1) the date of the requested redemption (the "**Redemption Date**"); and (2) unless all shares eligible for redemption are to be redeemed, the number of shares of Series A Preferred Stock or Series B Preferred Stock, as the case may be, to be redeemed (the "**Redeemed Shares**"). A holder of Series A Preferred Stock or Series B Preferred Stock may cancel its notice with respect to a redemption (and nullify the related redemption) by notifying the Corporation at least ten (10) days before the scheduled Redemption Date or within ten days following any later date on which the Redemption Price is finally determined, or at any later time if the redemption payment has not been paid.

(ii) Redemption Price. The "**Series A Redemption Price**" for the Redeemed Shares of Series A Preferred Stock will be the sum of the Series A Liquidation Preference plus the greater of: (1) the fair market value of such Redeemed Shares on the date of the redemption request, as determined in accordance with the procedure described below, or (2) the Discounted Cash Flow (as defined below) of such Redeemed Shares, determined as of the applicable Redemption Date. The "**Series B Redemption Price**" for the Redeemed Shares of Series B Preferred Stock will be the sum of the Series B Liquidation Preference plus the greater of: (1) the fair market value of such Redeemed Shares on the date of the redemption request, as determined in accordance with the procedure described below, or (2) the Discounted Cash Flow (as defined below) of such Redeemed Shares, determined as

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of the applicable Redemption Date. **"Discounted Cash Flow"** means the sum of (i) five (5) multiplied by EBITDA (as defined below), plus (ii) Cash (as defined below), and less (iii) Funded Debt (as defined below). Each of EBITDA, Cash and Funded Debt are determined per share of Series A Preferred Stock or Series B Preferred Stock, as the case may be, and on an as-converted to Common Stock basis.

(iii) Fair Market Value. At least 120 days before the Redemption Date, the Corporation shall cause its Board of Directors to establish the fair market value of the Redeemed Shares in good faith and notify each holder of Redeemed Shares of this value. The holders of at least one half of the Redeemed Shares may, within 20 days thereafter, notify the Corporation that they disagree with this value and request an appraisal process. Within 20 days thereafter, each of the Corporation and holders of a majority of the Redeemed Shares shall designate an appraiser experienced in the business of evaluating or appraising the market value of stock. The two designated appraisers (the **"Initial Appraisers"**) shall, before 60 days before the Redemption Date, appraise the Redeemed Shares as of the latest possible date, without discounting the Redeemed Shares for illiquidity or minority ownership interest. If the difference between the resulting appraisals is less than ten percent (10%) of the higher appraisal, the average of the appraisals will be deemed the fair market value; otherwise, the Initial Appraisers shall select an additional appraiser (the **"Additional Appraiser"**), also experienced in a manner similar to the Initial Appraisers. If they fail to select the Additional Appraiser within 30 days, either the Corporation or the holders the Redeemed Shares may apply, after written notice to the other, to any judge of any court of general jurisdiction in Hillsborough County, Florida, for the appointment of the Additional Appraiser. The Additional Appraiser shall then choose from the values determined by the Initial Appraisers the value that the Additional Appraiser considers closest to the fair market value of the Series A Preferred Stock or Series B Preferred Stock, as the case may be, and this value will be the Appraised Value. The Additional Appraiser shall notify the Corporation and the holders of the applicable series of his determination before the Redemption Date. Each party shall pay the expenses and fees of the appraiser selected by him or it (ratably based on share ownership for the holders of applicable Series A Preferred Stock or Series B Preferred Stock), and if an Additional Appraiser is employed, the party who selected the Initial Appraiser whose value determination was rejected by the Additional Appraiser shall pay all the expenses and fees of the Additional Appraiser.

(iv) Definitions. For purposes of this Section B.3(a): the term (A) **"EBITDA"** means the Corporation's aggregate earnings before interest, taxes, depreciation, and amortization for the prior full twelve months before the applicable Redemption Date, based on the Corporation's financial statements for that time period, as determined by the Corporation's independent certified public accountants; (B) **"Funded Debt"** means indebtedness for borrowed money of the Corporation that by its terms matures more than one year from the date of determination of the amount of Funded Debt, as of the last month-end before the applicable Redemption Date; and (C) **"Cash"** means cash, cash equivalents and marketable securities, as of the last month-end before the applicable Redemption Date.

(b) Closing. The Corporation shall pay the Series A Redemption Price and Series B Redemption Price to each holder of redeemed Series A Preferred Stock and redeemed Series B Preferred Stock, respectively, when the holder delivers to the place specified in its notice (1) the certificate(s) evidencing the redeemed Preferred Stock and (2) transfer instrument(s) sufficient to

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transfer to the Corporation the redeemed Preferred Stock, free of any adverse interest. If a holder redeems less than all of the shares evidenced by a certificate, the Corporation shall at its expense issue and deliver to the holder a new certificate evidencing the unredeemed shares.

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

(a) **Conversion at the Option of Majority Holders of Applicable Series.** Subject to the terms and conditions of this Section 4, the holders of the Series A Preferred Stock and Series B Preferred Stock shall each have the right to convert their respective shares of Series A Preferred Stock and Series B Preferred Stock to Common Stock after a vote of the applicable series of Preferred Stock. Should the holders of a majority of the then outstanding shares of the applicable series of Preferred Stock so elect, by delivery of written notice or notices to the Corporation, each and every outstanding share of such series of Preferred Stock held shall automatically be converted into the number of fully paid and non-assessable shares of Common Stock determined pursuant to Section 4(c) below. Such conversion shall be automatic, without need for any further action by such holders of shares of Series A Preferred Stock and Series B Preferred Stock and regardless of whether the certificates representing such shares are surrendered to the Corporation or its transfer agent; provided, however, that the Corporation shall not be obligated to issue certificates evidencing the shares of Common Stock issuable upon such conversion unless certificates evidencing such shares of Series A Preferred Stock and Series B Preferred Stock so converted are surrendered to the Corporation in accordance with the procedures described Section 4(d) below. The holders of Series A Preferred Stock and Series B Preferred Stock may continue to exercise this conversion option notwithstanding their receipt of notice of a Liquidation Event.

(b) **Mandatory Conversion.** All shares of Series A Preferred Stock and Series B Preferred Stock then outstanding will automatically be converted into the number of fully paid and non-assessable shares of Common Stock determined pursuant to Section 4(c) below as of the date that the Securities and Exchange Commission declares effective a registration of the Common Stock under the Securities Act of 1933, as amended, and the Corporation completes a bona fide offering of its Common Stock to the general public (a "Qualified Public Offering") (1) that is underwritten on a firm commitment basis by one or more nationally recognized underwriters, (2) from which the Corporation receives net cash proceeds of at least \$30,000,000, (3) that gives the Corporation a market capitalization of at least \$200,000,000, and (4) that provides for an initial offering price to the public per share of Common Stock of at least three (3) times the [Series A Liquidation Preference] in effect on the effective date. In addition to and not in limitation of the foregoing, on conversion of the Series A Preferred Stock and Series B Preferred Stock to Common Stock in connection with a public offering (whether or not a Qualified Public Offering as defined above), holders of Series A Preferred Stock and Series B Preferred Stock shall receive, for each share converted into Common Stock, an amount in cash or Common Stock (at the holders' option, with the Common Stock to be valued at the price per share to the public in the public offering), equal to the applicable Series A Liquidation Preference or Series B Liquidation Preference for each share.

(c) **Conversion Price.**

(i) **Series A Conversion Price.** Each share of Series A Preferred Stock will be convertible into such number of shares of Common Stock as is determined by dividing \$1.00 by the Series A Conversion Price in effect on the Conversion Date (as defined below). The "Series A Conversion Price" at which shares of Common Stock will be

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issuable on conversion of shares of the Series A Preferred Stock initially will be \$1.00 and, thus, initially each such share of Series A Preferred Stock is convertible into one share of Common Stock. The Series A Conversion Price will be subject to adjustment as set forth in Section 4(e). If the holder converts more than one share of Series A Preferred Stock, the number of shares of Common Stock issuable on conversion will be computed on the basis of the aggregate number of shares of Series A Preferred Stock so converted.

(ii) **Series B Conversion Price.** Each share of Series B Preferred Stock will be convertible into such number of shares of Common Stock as is determined by dividing \$0.50 by the Series B Conversion Price in effect on the Conversion Date (as defined below). The "Series B Conversion Price" at which shares of Common Stock will be issuable on conversion of shares of the Series B Preferred Stock initially will be \$0.50 and, thus, initially each such share of Series B Preferred Stock is convertible into one share of Common Stock. The Series B Conversion Price will be subject to adjustment as set forth in Section 4(f). If the holder converts more than one share of Series B Preferred Stock, the number of shares of Common Stock issuable on conversion will be computed on the basis of the aggregate number of shares of Series B Preferred Stock so converted.

(d) **Mechanics of Conversion.** Upon the conversion of the Series A Preferred Stock and Series B Preferred Stock pursuant to Section 4(a) or 4(b), each holder of Series A Preferred Stock and Series B Preferred Stock shall promptly surrender to the Corporation (or to another person designated by the Board of Directors) the certificates evidencing the converted shares, endorsed and assigned to the Corporation in blank. Conversion of shares of Series A Preferred Stock and Series B Preferred Stock to Common Stock will be effective on the close of business of the day immediately preceding the day on which the holders of a majority of the then outstanding shares of Series A Preferred Stock and Series B Preferred Stock deliver to the Corporation notice or notices of their election to convert (for a conversion pursuant to Section 4(a)) or on the date of the Qualified Public Offering (for a conversion pursuant to Section 4(b)) (the foregoing respective dates are the "Conversion Date"). As promptly as practicable after the Conversion Date and in any event within five days after surrender of the certificate or certificates representing converted shares of Series A Preferred Stock and Series B Preferred Stock, the Corporation will issue and deliver, or cause to be issued or delivered, at its expense to a converting holder (or to another person designated in writing by the holder consistently with the provisions of the Corporation's Shareholder Agreement), a certificate evidencing the number of whole shares of Common Stock to which such holder is entitled. The person in whose name the certificate or certificates for Common Stock are to be issued will be deemed the holder of such Common Stock as of the close of business on the Conversion Date. At the close of business on the day immediately preceding the Conversion Date, (1) the converted shares of Series A Preferred Stock and Series B Preferred Stock will cease to be outstanding, (2) the holders of the converted shares will cease to have any further rights with respect to those shares, except to receive Common Stock and cash with respect to the converted shares, and (3) the holders of the converted shares will be deemed to have become the holders of the Common Stock for all purposes.

(e) **Adjustments of Conversion Price On Issuance of Common Stock.** If the Corporation issues or sells (or pursuant to subparagraphs (e)(1) through (e)(9), is deemed to issue or sell) any shares of Common Stock for consideration per share less than the Series A Conversion Price in effect immediately before the issuance or sale, the Series A Conversion Price will be reduced to the price, calculated to the nearest one-hundredth of a cent, determined by dividing (1) an amount equal to the sum of (a) the number of shares of Common Stock outstanding immediately before such issuance or sale (including as outstanding all shares of Common Stock

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issuable on conversion of outstanding Series A Preferred Stock) multiplied by the then existing Series A Conversion Price and (b) the consideration, if any, received by the Corporation upon such issuance or sale, by (2) the total number of shares of Common Stock outstanding immediately after such issuance or sale (including as outstanding all shares of Common Stock issuable on conversion of outstanding Series A Preferred Stock, based on the conversion ratio in effect immediately before the issuance).

If the Corporation issues or sells (or pursuant to subparagraphs (e)(1) through (e)(9), is deemed to issue or sell) any shares of Common Stock for consideration per share less than the Series B Conversion Price in effect immediately before the issuance or sale, the Series B Conversion Price will be reduced to the price, calculated to the nearest one-hundredth of a cent, determined by dividing (1) an amount equal to the sum of (a) the number of shares of Common Stock outstanding immediately before such issuance or sale (including as outstanding all shares of Common Stock issuable on conversion of outstanding Series B Preferred Stock) multiplied by the then existing Series B Conversion Price and (b) the consideration, if any, received by the Corporation upon such issuance or sale, by (2) the total number of shares of Common Stock outstanding immediately after such issuance or sale (including as outstanding all shares of Common Stock issuable on conversion of outstanding Series B Preferred Stock, based on the conversion ratio in effect immediately before the issuance).

For purposes of the preceding paragraphs of this paragraph (e), the following subparagraphs (e)(1) to (e)(9) also apply to conversion of the Series A Preferred Stock and Series B Preferred Stock to Common Stock. For purposes of subparagraphs (e)(1) to (e)(9) and (f), "Conversion Price" means the Series A Conversion Price or the Series B Conversion Price, whichever is subject to adjustment pursuant to this subparagraph (e).

(e)(1) **Issuance of Rights or Options.** In case the Corporation in any manner issues (whether directly or by assumption in a merger or otherwise) warrants or other rights to subscribe for or purchase, or options to purchase, Common Stock or stock or securities convertible into or exchangeable for Common Stock (the warrants, rights or options are "Options" and the convertible or exchangeable stock or securities are "Convertible Securities"), whether or not the Options or Convertible Securities are immediately exercisable, and the price per share (determined, for a formula price, based on current circumstances or, if dependent on future circumstances, facts that would result in the lowest price per share) for which Common Stock is issuable on the Options' exercise or on the conversion or exchange of the Convertible Securities (determined by dividing (1) the total amount, if any, payable to the Corporation as consideration for the Option grant, plus the aggregate amount of additional consideration payable to the Corporation on the Option exercise, plus, in the case of any Options that relate to Convertible Securities, any consideration payable on the issue or sale of the Convertible Securities and on their conversion or exchange, by (2) the total number of shares of Common Stock issuable upon the Options' exercise or on the conversion or exchange of Convertible Securities issuable on the Options' exercise) is less than the Conversion Price in effect immediately before the Option grant, the total number of shares of Common Stock issuable on the Options' exercise or on conversion or exchange of any Convertible Securities issuable on the Options' exercise will be deemed issued for such price per share on the date of the Options' grant and thereafter will be deemed outstanding. Except as otherwise provided in subparagraph (c)(3), the Conversion Price will not be further adjusted when the Common Stock is actually issued on exercise of the Options or conversion or exchange of Convertible Securities.

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

(e)(3) **Change in Option Price or Conversion Rate.** Upon the happening of any of the following events, namely, if the purchase price provided for in any Option referenced in subparagraph (e)(1), the additional consideration, if any, payable upon the conversion or exchange of any Convertible Securities referred to in subparagraph (e)(1) or (e)(2), or the rate at which Convertible Securities referred to in subparagraph (e)(1) or (e)(2) are convertible into or exchangeable for Common Stock changes at any time (including, but not limited to, changes under or by reason of provisions designed to protect against dilution), the Conversion Price in effect at the time of such event will be readjusted to the Conversion Price which would have been effective at that time had the Options or Convertible Securities still outstanding provided for such changed purchase price, additional consideration or conversion rate, as the case may be, when initially granted, issued or sold; and on the expiration of the Options or the termination of a right to convert or exchange any Convertible Securities, the Conversion Price then in effect will be increased to the Conversion Price that would have been in effect at the time of the expiration or termination had the Options or Convertible Securities never been issued.

(e)(4) **Stock Dividends and Subdivisions.** If the Corporation declares a dividend or makes any other distribution payable in additional shares of Common Stock (except for dividends or distributions payable in shares of Common Stock upon the Series A Preferred Stock or Series B Preferred Stock), Options, or Convertible Securities, the Common Stock, Options, or Convertible Securities, as the case may be, issuable in payment of the dividend or distribution will be deemed to have been issued or sold (as of the record date) without consideration (except for the consideration payable to exercise any Options or convert any Convertible Securities). In case the Corporation subdivides its outstanding shares of Common Stock into a greater number of shares, the Conversion Price then in effect will be proportionately reduced to reflect the subdivision. In case the

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Corporation combines its outstanding shares of Common Stock into a fewer number of shares, the Conversion Price then in effect will be proportionately increased to reflect the combination. An adjustment made pursuant to this paragraph (e)(4) will become effective retroactively (x) in the case of any such dividend or distribution, to a date immediately following the close of business on the record date for determination of the holders of Common Stock entitled to receive such dividend or distribution, or (y) in the case of any such subdivision or combination, to the close of business on the day upon which such corporate action becomes effective.

(e)(5) Consideration for Stock. In case any shares of Common Stock, Options, or Convertible Securities are issued or sold for cash, the consideration deemed to be received will be the amount actually received by the Corporation, without deduction of any expenses incurred or any underwriting commissions or concessions paid or allowed by the Corporation in connection with the issuance or sale. In case any shares of Common Stock, Options, or Convertible Securities are issued or sold for a consideration other than cash, the amount of the consideration other than cash received by the Corporation will be the fair value of such consideration as determined in good faith by the Corporation's Board of Directors, without deduction of any expenses incurred or any underwriting commissions or concessions paid or allowed by the Corporation in connection with the issuance or sale. In case any shares of Common Stock, Options, or Convertible Securities are issued together with other securities or other assets of the Corporation for consideration that is allocable to both the Common Stock, Options and/or Convertible Securities, and to such other securities and assets, the portion of such consideration allocable to such Common Stock, Options and/or Convertible Securities shall be that set forth in the instruments and agreements issued or entered into in connection with such transaction, and if no such allocation is so set forth, then the portion of such consideration allocable to such Common Stock, Options and/or Convertible Securities shall be calculated as provided in the first two sentences of this subparagraph (e)(5), as determined in good faith by the Board of Directors.

(e)(6) Other Dilutive Issuances. If an event not specified in this paragraph (e) occurs that has substantially the same economic effect on the Series A Preferred Stock or Series B Preferred Stock as any of the events specifically enumerated above in this paragraph (e), then this paragraph (e) shall be construed liberally, as if the necessary changes have been made, in order to provide the holders of Series A Preferred Stock and Series B Preferred Stock with the intended benefit of the protections provided under this paragraph (e). In such event, the Corporation's Board of Directors shall make an appropriate adjustment (including, without limitation, issuing additional Series A Preferred Stock and/or Series B Preferred Stock, as the case may be, to their respective holders) so as to protect the rights of the respective holders of Series A Preferred Stock and Series B Preferred Stock; provided that no such adjustment shall increase the applicable Conversion Price above the Conversion Price as otherwise determined pursuant to this paragraph (e).

(e)(7) Record Date. If the Corporation does not set a record date to determine the holders of its Common Stock entitled (1) to receive a dividend or other distribution payable in Common Stock, Options, or Convertible Securities or (2) to subscribe for or purchase Common Stock, Options, or Convertible Securities, the record date will be deemed to be the date of the issue or sale of the shares of Common Stock deemed to have been issued or sold upon the declaration of a dividend or the making of another

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

(e)(8) **Treasury Shares.** The number of shares of Common Stock outstanding at any given time does not include shares owned or held by or for the account of the Corporation, and its disposition of those shares will be considered an issue or sale of Common Stock for purposes of this paragraph (e).

(e)(9) **Reports as to Adjustments.** Whenever the Conversion Price is adjusted as provided in this paragraph (e), the Corporation will promptly compute the adjustment and furnish to each holder of respective shares of the Series A Preferred Stock and Series B Preferred Stock subject to such adjustment, a certificate, signed by a principal financial officer of the Corporation, setting forth the new Series A Conversion or Series B Conversions, as the case may be, and the number of shares of Common Stock into which each share of Series A Preferred Stock and/or Series B Preferred Stock is convertible as a result of the adjustment, a brief statement of the facts requiring the adjustment, the computation of the adjustment, and when the adjustment will become effective.

(f) **Certain Issues of Common Stock Excepted.** Notwithstanding the foregoing provisions, the Corporation will not be required to adjust the Conversion Price in the case of the issuance of (1) up to an aggregate 458,589 shares of Common Stock pursuant to any stock option/equity issuance plan approved by the Board of Directors (appropriately adjusted to reflect the occurrence of an event described in paragraph (e)), and (2) shares of Common Stock issuable on conversion of the Series A Preferred Stock or Series B Preferred Stock.

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

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

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

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

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

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

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

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

7. **Amendment of Articles of Incorporation.** So long as any shares of the Series A Preferred Stock are outstanding, the Corporation will not, without the affirmative vote of holders of a majority in interest of the Series A Preferred Stock voting together as a single class, in addition to any other vote, consent, or approval required by law or otherwise, amend the Corporation's Articles of Incorporation or Bylaws in any manner which adversely affects the relative rights and preferences of the Series A Preferred Stock or changes any of the rights, preferences, or interests of the Series A Preferred Stock. So long as any shares of the Series B Preferred Stock are outstanding, the Corporation will not, without the affirmative vote of holders of a majority in interest of the Series B Preferred Stock voting together as a single class, in addition to any other vote, consent, or approval required by law or otherwise, amend the Corporation's Articles of Incorporation or Bylaws in any manner which adversely affects the relative rights and preferences of the Series B Preferred Stock or changes any of the rights, preferences, or interests of the Series B Preferred Stock.

8. **Reissuance of Shares.** Any shares of Series A Preferred Stock and Series B Preferred Stock redeemed or otherwise reacquired by the Corporation will be canceled and not available for further issuance.

FOURTH: The Corporation adopts the following as new Article VII of its Articles of Incorporation:

ARTICLE VII. DIRECTORS

1. **Number of Members of Board of Directors.** The Board of Directors of the Corporation shall consist of five (5) members. The holders of the Series A Preferred Stock and Series B Preferred Stock, voting together as a single class, will nominate and elect all of the members of the Board of Directors.

2. **Designation of Nominees.** The holders of a majority of the shares of Series A Preferred Stock and Series B Preferred Stock, voting together as a single class, may nominate and elect the directors. If the holders of the Series A Preferred Stock and Series B Preferred Stock fail to nominate and elect a person to serve as director, that position on the Board of Directors will be left vacant until they do so.

3. **Removal of Directors; Election of Successors.** The holders of a majority of the Series A Preferred Stock and Series B Preferred Stock, voting together as a single class, may remove a director that they designated pursuant to Section 2, with or without cause, by notice to the Corporation. If a director is so removed, resigns, is unable to serve, or for any other reason a vacancy in a Board position occurs, then the holders of a majority of the shares of Series A Preferred Stock and Series B Preferred Stock, voting together as a single class, may replace the director.

4. **Compensation and Audit Committees.** The Corporation establishes a Compensation Committee of the Board of Directors. The Corporation may establish an Audit Committee in the future. The Compensation Committee and the Audit Committee will each consist of two (2) directors. The

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Compensation Committee shall approve salaries (including increases) for the President, Chief Executive Officer, Chief Financial Officer, and any Vice President positions and shall also approve any merit increase, incentive, or bonus pool plans.

5. **Quorum of Board of Directors.** A quorum for the transaction of business at all meetings of the Board of Directors shall be a majority of the number of directors comprising the Board of Directors.

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

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SIGNATURE PAGE
TO
THIRD ARTICLES OF AMENDMENT
TO
ARTICLES OF INCORPORATION
OF
TRIPLE S&P, INC.

These Articles of Amendment have been executed by a duly authorized officer of the Corporation
as of ~~October 28~~, 2011.
November

By: 
Stanley K. Kinnett
President and CEO