

P130000095273

(Requestor's Name)

(Address)

(Address)

(City/State/Zip/Phone #)

☐ PICK-UP ☐ WAIT ☐ MAIL

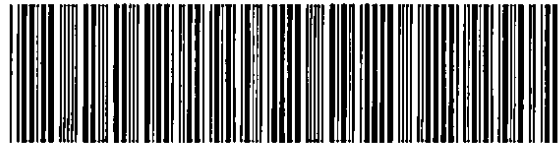
(Business Entity Name)

(Document Number)

Certified Copies \_\_\_\_\_ Certificates of Status \_\_\_\_\_

Special Instructions to Filing Officer:

Office Use Only



300418873473

Amended &  
Restated

2023 NOV 13 AM 9:10

FILED

A. RAMSEY

NOV 29 2023

DIRECTOR'S OFFICE  
DIVISION OF CORPORATIONS  
TALLAHASSEE, FLORIDA

2023 NOV 13 AM 11:38

RECEIVED

\*02250, 00611, 00534, 00671  
\*02250, 00524, 02575, 00671



FLORIDA DEPARTMENT OF STATE  
Division of Corporations

November 17, 2023

CORPORATION SERVICE COMPANY

TALLAHASSEE, FL 32301

SUBJECT: MYPARK, CORP.  
Ref. Number: P13000095273

**RESUBMIT**

Please give original  
submission date as file date

We have received your document for MYPARK, CORP. and the authorization to debit your account in the amount of \$35.00. However, the document has not been filed and is being returned for the following:

*new*  
The registered agent must sign accepting the designation.

Please accept our apology for failing to mention this in our previous letter.

Please return your document, along with a copy of this letter, within 60 days or your filing will be considered abandoned.

If you have any questions concerning the filing of your document, please call (850) 245-6050.

Annette Ramsey  
OPS

Letter Number: 623A00026645

RECEIVED  
2023 NOV 28 PM 3:29  
SECRETARY OF STATE  
TALLAHASSEE FLORIDA



CSC - Tallahassee  
1201 Hays Street  
Tallahassee, FL 32301-2607  
850-558-1500, Ext: 61592

To: Department Of State, Division Of Corporations  
From: Alexxis Weiland-Sorenson  
Ext: 61592  
Date: 11/13/23  
Order #: 1309909-1  
Re: MYPARK, CORP.  
Processing Method: Routine

TO WHOM IT MAY CONCERN:

Enclosed please find:

Amount to be deducted from our State Account: \$35.00 - FL State Account Number:  
I20000000195

Authorization:

A handwritten signature in black ink, appearing to read 'Alexxis Weiland-Sorenson', is written over the word 'Authorization:'.

Please take the following action:

File in your office on basis  
Issue Proof of Filing

Special Instructions:

Thank you for your assistance in this matter. If there are any problems or questions with this filing, please call our office.

SECOND AMENDED AND RESTATED  
ARTICLES OF INCORPORATION  
OF  
MYPARK, CORP.

(Document Number P13000095273)

(Pursuant to Section 607 of the  
Florida Business Corporation Act)

MYPARK, CORP., a corporation organized and existing under and by virtue of the provisions of the Florida Business Corporation Act (the "Business Corporation Act"),

**DOES HEREBY CERTIFY:**

1. That the name of this corporation is MYPARK, CORP., and that this corporation was originally incorporated pursuant to the Business Corporation Act on November 11, 2013, under the name MYPARK, CORP.

2. That the Articles of Incorporation of this corporation be amended and restated in their entirety, as approved and adopted by the board of directors on March 12, 2020, and subsequently, on March 12, 2020, approved by the shareholders with the number of shareholder votes required for the amendment being sufficient for its approval, to read as follows:

1.: The name of this corporation is MyPark, Corp. (the "Corporation").

2.: The address of both the principal and the registered office of the Corporation in the State of Florida is 2980 McFarlane Road, Suite 20, Miami, Florida 33133. The name of its registered agent at such address is Ricardo Blanco 2980 McFarlane Road, Suite 20, Miami, Florida 33133.

Registered Agent Signature: 

3.: The nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the Business Corporation Act.

4.: The total number of shares of all classes of stock which the Corporation shall have authority to issue is (i) 26,670,000 shares of Common Stock, \$0.0001 par value per share ("Common Stock"), and (ii) 8,000,000 shares of Preferred Stock, \$0.0001 par value per share ("Preferred Stock").

Effective immediately upon the filing of these Second Amended and Restated Articles of Incorporation (these "Articles", and time of such filing, the "Effective Time"), each share of Common Stock then issued and outstanding shall automatically, without any action on the part of the holder thereof, be renamed and known as one (1) share of the Class B Common Stock (as

FILED

2023 NOV 13 AM 9:10

defined below). Each outstanding stock certificate which, immediately prior to the Effective Time, represented one or more shares of the Common Stock shall, upon and after the Effective Time, represent that same number of shares of Class B Common Stock. The Corporation shall, upon the request of any holder of Common Stock prior to the Effective Time and upon receipt of such holder's outstanding certificate or certificates for Common Stock, issue and deliver to such holder new certificates representing such holder's shares of Class B Common Stock.

Effective immediately upon the Effective Time, each share of Preferred Stock, Class A then issued and outstanding shall automatically, without any action on the part of the holder thereof, be renamed and known as one (1) share of the Class A Preferred Stock (as defined below). Each outstanding stock certificate which, immediately prior to the Effective Time, represented one or more shares of the Preferred Stock, Class A shall, upon and after the Effective Time, represent that same number of shares of Class A Preferred Stock. The Corporation shall, upon the request of any holder of Preferred Stock, Class A prior to the Effective Time and upon receipt of such holder's outstanding certificate or certificates for Preferred Stock, Class A, issue and deliver to such holder new certificates representing such holder's shares of Class A Preferred Stock.

*lam* The following is a statement of the designations and the powers, privileges and rights, and the qualifications, limitations or restrictions thereof in respect of each class of capital stock of the Corporation.

A. COMMON STOCK

Of the authorized and unissued Common Stock, 20,000,000 are hereby designated "Class A Common Stock" and 6,670,000 shares are hereby designated "Class B Common Stock", each with the following rights, preferences, powers, privileges and restrictions, qualifications and limitations. Unless otherwise indicated, references to "sections" in this Part A of this Article Fourth refer to sections of Part A of this Article Fourth. The Class A Common Stock and Class B Common Stock are referred to herein collectively as the "Common Stock".

1. Class A Common Stock. The following rights, powers and preferences, and restrictions, qualifications and limitations shall apply to the Class A Common Stock:

1.1. General. The voting, dividend and liquidation rights of the holders of the Class A Common Stock are subject to and qualified by the rights, powers and preferences of the holders of the Preferred Stock set forth herein.

1.2. Voting. The holders of the Class A Common Stock are entitled to one (1) vote for each share of Class A Common Stock held at all meetings of shareholders (and written actions in lieu of meetings); provided, however, that, except as otherwise required by law, holders of Class A Common Stock, as such, shall not be entitled to vote on any amendment to these Articles that relates solely to the terms of one or more outstanding class or series of Preferred Stock if the holders of such affected class or series

are entitled, either separately or together with the holders of one or more other such class or series, to vote thereon pursuant to these Articles. There shall be no cumulative voting. The number of authorized shares of Class A Common Stock and total Common Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by (in addition to any vote of the holders of one or more class or series of Preferred Stock that may be required by the terms of these Articles) the affirmative vote of the holders of shares of capital stock of the Corporation representing a majority of the votes represented by all outstanding shares of capital stock of the Corporation entitled to vote, without a separate class vote of the Class A Common Stock or Common Stock.

2. Class B Common Stock. The following rights, powers and preferences, and restrictions, qualifications and limitations shall apply to the Class B Common Stock:


2.1. General. The voting, dividend and liquidation rights of the holders of the Class B Common Stock are subject to and qualified by the rights, powers and preferences of the holders of the Preferred Stock set forth herein.

2.2. Voting. The holders of the Class B Common Stock are entitled to one point sixty (1.6) votes for each share of Class B Common Stock held at all meetings of shareholders (and written actions in lieu of meetings); provided, however, that, except as otherwise required by law, holders of Class B Common Stock, as such, shall not be entitled to vote on any amendment to these Articles that relates solely to the terms of one or more outstanding class or series of Preferred Stock if the holders of such affected class or series are entitled, either separately or together with the holders of one or more other such class or series, to vote thereon pursuant to these Articles. There shall be no cumulative voting. The number of authorized shares of Class B Common Stock and total Common Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by (in addition to any vote of the holders of one or more class or series of Preferred Stock that may be required by the terms of these Articles) the affirmative vote of the holders of shares of capital stock of the Corporation representing a majority of the votes represented by all outstanding shares of capital stock of the Corporation entitled to vote, without a separate class vote of the Class B Common Stock or Common Stock.

3. Conversion.

3.1. Optional Conversion. Each share of Class B Common Stock shall be convertible into one (1) fully paid and nonassessable share of Class A Common Stock at the option of the holder thereof at any time upon written notice to the Corporation. Before any holder of Class B Common Stock shall be entitled to convert any shares of such Class B Common Stock, such holder shall surrender the certificate or certificates therefor, duly endorsed, at the office of the transfer agent for the Class B Common Stock (or at the principal office of the Corporation if the Corporation serves as its own transfer agent), and shall give written notice to the Corporation at its principal office, of the

election to convert the same and shall state therein the name or names in which the certificate or certificates for shares of Class A Common Stock are to be issued. The Corporation shall, as soon as practicable thereafter, issue and deliver at such office to such holder of Class B Common Stock, or to the nominee or nominees or such holder, a certificate or certificates for the number of shares of Class A Common Stock to which such holder shall be entitled as aforesaid. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of Class B Common Stock to be converted, and the person or persons entitled to receive the shares of Class A Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Class A Common Stock as of such date. Each share of Class B Common Stock that is converted pursuant to this Section 3.1 shall be retired by the Corporation and shall not be available for reissuance.

 3.2. Transfer. Each share of Class B Common Stock that is Transferred (as defined below), other than a Permitted Transfer (as defined below), shall be automatically, without further action by the holder thereof, converted into one (1) fully paid and nonassessable share of Class A Common Stock, upon the occurrence of such Transfer of such share of Class B Common Stock. Each outstanding stock certificate that, immediately prior to such Transfer, represented one or more shares of Class B Common Stock subject to such Transfer shall, upon and after such Transfer, be deemed to represent an equal number of shares of Class A Common Stock, without the need for surrender or exchange thereof. The Corporation shall, upon the request of each such holder and upon receipt of such holder's outstanding certificate, issue and deliver to such holder new certificates representing such holder's shares of Class A Common Stock. Each share of Class B Common Stock that is converted pursuant to this Section 3.2 shall be retired by the Corporation and shall not be available for reissuance.

3.3. Dual Class Structure. The Corporation may, from time to time, establish such policies and procedures not in violation of applicable law or the other provisions of these Articles (including Section 3.1 above), relating to the conversion of the Class B Common Stock into Class A Common Stock and the dual class Common Stock structure contemplated in these Articles, including without limitation the issuance of stock certificates in connection with any such conversion, as it may deem necessary or advisable. If the Corporation has reason to believe that a Transfer giving rise to a conversion of shares of Class B Common Stock into Class A Common Stock has occurred but has not theretofore been reflected on the books of the Corporation, the Corporation may request that the holder of such shares furnish affidavits or other evidence to the Corporation as it reasonably deems necessary to determine whether a conversion of shares of Class B Common Stock to Class A Common Stock has occurred, and if such holder does not within twenty (20) business days after the date of such request furnish sufficient evidence to the Corporation (in the manner provided in the request) to enable the Corporation to determine that no such conversion has occurred, any such

shares of Class B Common Stock, to the extent not previously converted, shall be automatically converted into shares of Class A Common Stock and the same shall thereupon be registered on the books and records of the Corporation. In connection with any action of shareholders taken at a meeting or by written consent, the stock ledger of the Corporation shall be presumptive evidence as to who are the shareholders entitled to vote in person or by proxy at any meeting of shareholders or in connection with any written consent and the classes of shares held by each such shareholder and the number of shares of each class held by such shareholder.

4. Subdivisions or Combinations. If the Corporation in any manner subdivides or combines the outstanding shares of Class A Common Stock, then the outstanding shares of Class B Common Stock will be subdivided or combined in the same proportion and manner.

*From*  
5. Reclassifications. If the Class A Common Stock issuable upon the conversion of the Class B Common Stock is changed into the same or a different number of shares of any class or classes of stock of the Corporation, whether by recapitalization, reclassification or otherwise, then in any such event each holder of Class B Common Stock shall have the right thereafter to convert such stock into the kind and amount of stock and other securities and property receivable upon such recapitalization, reclassification or other change by holders of the number of shares of Class A Common Stock into which such shares of Class B Common Stock could have been converted immediately prior to such recapitalization, reclassification or change.

6. Equal Status. Except as expressly set forth in this Article Fourth, Class B Common Stock shall have the same rights and powers of, rank equally to, share ratably with and be identical in all respects and as to all matters to Class A Common Stock.

7. Protective Provision. So long as any shares of Class B Common Stock remain issued and outstanding, the Corporation shall not, by amendment, merger, consolidation or otherwise, without first obtaining the approval (by vote at a shareholders meeting or written consent, as provided by law) of the holders of a majority of the then outstanding shares of Class B Common Stock, voting as a separate class, amend, alter, repeal or waive Sections 2 through 9.

8. Reservation of Stock. The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Class A Common Stock, solely for the purpose of effecting the conversion of the shares of Class B Common Stock, such number of shares of Class A Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of Class B Common Stock into shares of Class A Common Stock.

9. Definitions.



9.1. **"Family Member"** shall mean, with respect to any natural person who is a Qualified Shareholder, the spouse or lineal descendant of such Qualified Shareholder.

9.2. **"Permitted Entity"** shall mean, with respect to a Qualified Shareholder, (a) a Permitted Trust or (b) any general partnership, limited partnership, limited liability company, corporation or other entity that controls, is controlled by or is under the common control of (i) such Qualified Shareholder, (ii) one or more Family Members of such Qualified Shareholder or (iii) any other Permitted Entity of such Qualified Shareholder.

9.3. **"Permitted Transfer"** shall mean, and be restricted to, any Transfer of a share of Class B Common Stock:

9.3.1. by a Qualified Shareholder to (i) one or more Family Members of such Qualified Shareholder or (ii) any Permitted Entity of such Qualified Shareholder;

9.3.2. by a Permitted Entity of a Qualified Shareholder to (i) such Qualified Shareholder or one or more Family Members of such Qualified Shareholder or (ii) any other Permitted Entity of such Qualified Shareholder; or

9.3.3. by a Qualified Shareholder or Permitted Entity of a Qualified Shareholder to (i) any general partner, managing member, officer or director of such Qualified Shareholder or (ii) any entity that is controlled by one or more general partners or managing members of, or shares the same ultimate parent entity (which may be a general partnership, limited partnership, limited liability company, corporation or other entity) with, such Qualified Shareholder.

9.4. **"Permitted Transferee"** shall mean a transferee of shares of Class B Common Stock received in a Transfer that constitutes a Permitted Transfer.

9.5. **"Permitted Trust"** shall mean a trust or trusts controlled by, under common control of, or for the benefit of a Qualified Shareholder or one or more Family Members of such Qualified Shareholder.

9.6. **"Qualified Shareholder"** shall mean (a) the registered holder of a share of Class B Common Stock as of immediately following the Effective Time; or (b) a Permitted Transferee.

9.7. **"Transfer"** of a share of Class B Common Stock shall mean any sale, assignment, transfer, conveyance or other disposition of such share or any legal or beneficial interest in such share, whether or not for value and whether voluntary or involuntary or by operation of law. A Transfer shall also be deemed to have occurred with respect to a share of Class B Common Stock beneficially held by an entity that is a

Permitted Entity, if there occurs any act or circumstance that causes such entity to no longer be a Permitted Entity.

9.8. "Qualified IPO" shall mean an underwritten public offering of share of Common Stock of the Corporation that results in at least \$75,000,000 of net proceeds to the Corporations at a price at least four times \$1.176, as adjusted for stock splits, stock dividends, recapitalizations and the like.

## B. PREFERRED STOCK

Of the authorized and unissued Preferred Stock of the Corporation, 3,500,000 are hereby designated "Class A Preferred Stock" and 4,500,000 shares are hereby designated "Class B Preferred Stock", each with the following rights, preferences, powers, privileges and restrictions, qualifications and limitations. Unless otherwise indicated, references to "sections" in this Part B of this Article Fourth refer to sections of Part B of this Article Fourth. The Class A Preferred Stock and the Class B Preferred Stock are referred to herein collectively as the "Preferred Stock".

### 1. Dividends.

The Corporation shall not declare, pay or set aside any dividends on shares of any other class or series of capital stock of the Corporation (other than dividends payable in shares of Class A Common Stock or other securities and rights convertible into or entitling the holder thereof to receive, directly or indirectly, additional shares of Class A Common Stock) unless (in addition to the obtaining of any consents required elsewhere in these Articles) the holders of the Preferred Stock then outstanding shall first receive, or simultaneously receive, on a *pari passu* basis, a dividend on each outstanding share of each class or series of Preferred Stock in an amount at least equal to in the case of a dividend on Common Stock or any class or series of capital stock that is convertible into Common Stock, that dividend per share of Preferred Stock as would equal the product of (A) the dividend payable on each share of such class or series of capital stock determined, if applicable, as if all shares of such class or series of capital stock had been converted into Common Stock and (B) the number of shares of Common Stock issuable upon conversion of a share of the applicable class or series of Preferred Stock, in each case calculated on the record date for determination of holders entitled to receive such dividend; provided that, if the Corporation declares, pays or sets aside, on the same date, a dividend on shares of more than one class or series of capital stock of the Corporation other than a class or series of Preferred Stock, the dividend payable to the holders of Preferred Stock pursuant to this Section 1 shall be calculated based upon the dividend on the class or series of capital stock that would result in the highest Preferred Stock dividend. The "Class A Preferred Original Issue Price" shall mean \$1.86 per share (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Class A Preferred Stock). The "Class B Preferred Original Issue Price" shall mean \$1.176 per share (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar

recapitalization with respect to the Class B Preferred Stock). The "Original Issue Price" shall mean, as applicable, (i) with respect to the Class A Preferred Stock, the Class A Preferred Original Issue Price and (ii) with respect to the Class B Preferred Stock, the Class B Preferred Original Issue Price.

2. Liquidation, Dissolution or Winding Up; Certain Mergers, Consolidations and Asset Sales.

*PCM*  
2.1. Preferential Payments to Holders of Class B Preferred Stock. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the holders of shares of Class B Preferred Stock then outstanding shall be entitled to be paid out of the assets of the Corporation available for distribution to its shareholders, and in the event of a Deemed Liquidation Event (as defined below), the holders of shares of Class B Preferred Stock then outstanding shall be entitled to be paid out of the consideration payable to shareholders in such Deemed Liquidation Event or out of the Available Proceeds (as defined below), as applicable, before any payment shall be made to the holders of Common Stock by reason of their ownership thereof, an amount per share equal to the greater of (i) two (2) times the Class B Preferred Original Issue Price, plus any dividends declared but unpaid thereon, or (ii) such amount per share as would have been payable had all shares of Class B Preferred Stock been converted into Class A Common Stock pursuant to Section 4 immediately prior to such liquidation, dissolution, winding up or Deemed Liquidation Event (the amount payable pursuant to this sentence is hereinafter referred to as the "Class B Liquidation Amount"). If upon any such liquidation, dissolution or winding up of the Corporation or Deemed Liquidation Event, the assets of the Corporation available for distribution to its shareholders shall be insufficient to pay the holders of shares of Class B Preferred Stock the full amount to which they shall be entitled under this Section 2.1, the holders of shares of Class B Preferred Stock shall share ratably in any distribution of the assets available for distribution in proportion to the respective amounts which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full, or the Class B Preferred Stockholders may seek to have all assets of the Corporation transferred to a entity designated by them, or will request, and all other class of shareholder will sell their shares to the Corporation at \$0.0001 per fully converted share, and such shares shall become treasury stock.

2.2. Preferential Payments to Holders of Class A Preferred Stock. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, after the payment in full of all Class B Liquidation Amounts required to be paid to the holders of shares of Class B Preferred Stock, the holders of shares of Class A Preferred Stock then outstanding shall be entitled to be paid out of the assets of the Corporation available for distribution to its shareholders, and in the event of a Deemed Liquidation Event (as defined below), the holders of shares of Class A Preferred Stock

then outstanding shall be entitled to be paid out of the consideration payable to shareholders in such Deemed Liquidation Event or out of the Available Proceeds (as defined below), as applicable, before any payment shall be made to the holders of Common Stock by reason of their ownership thereof, an amount per share equal to the greater of (i) one (1) times the Class A Preferred Original Issue Price, plus any dividends declared but unpaid thereon, or (ii) such amount per share as would have been payable had all shares of Class A Preferred Stock been converted into Class A Common Stock pursuant to Section 4 immediately prior to such liquidation, dissolution, winding up or Deemed Liquidation Event (the amount payable pursuant to this sentence is hereinafter referred to as the "Class A Liquidation Amount", and together with the Class B Liquidation Amount, each, a "Liquidation Amount"). If upon any such liquidation, dissolution or winding up of the Corporation or Deemed Liquidation Event, the assets of the Corporation available for distribution to its shareholders shall be insufficient to pay the holders of shares of Class A Preferred Stock the full amount to which they shall be entitled under this Section 2.2, the holders of shares of Class A Preferred Stock shall share ratably in any distribution of the assets available for distribution in proportion to the respective amounts which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full.

2.3. Payments to Holders of Common Stock. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, after the payment in full of all Liquidation Amounts required to be paid to the holders of shares of Preferred Stock, the remaining assets of the Corporation available for distribution to its shareholders or, in the case of a Deemed Liquidation Event, the consideration not payable to the holders of shares of Preferred Stock pursuant to Sections 2.1 and 2.2 or the remaining Available Proceeds, as the case may be, shall be distributed among the holders of shares of Class A Common Stock and Class B Common Stock, pro rata based on the number of shares of Common Stock held by each such holder.

2.4. Deemed Liquidation Events.

2.4.1. Definition. Each of the following events shall be considered a "Deemed Liquidation Event" unless the holders of a majority of the outstanding shares of Preferred Stock, voting as a single class on an as-converted basis (the "Requisite Holders"), elect otherwise by written notice sent to the Corporation at least five (5) days prior to the effective date of any such event:

(a) a merger or consolidation in which

(i) the Corporation is a constituent party or

(ii) a subsidiary of the Corporation is a constituent party and the Corporation issues shares of its capital stock pursuant to such merger or consolidation.

except any such merger or consolidation involving the Corporation or a subsidiary in which the shares of capital stock of the Corporation outstanding immediately prior to such merger or consolidation continue to represent, or are converted into or exchanged for shares of capital stock that represent, immediately following such merger or consolidation, a majority, by voting power, of the outstanding capital stock of (1) the surviving or resulting corporation; or (2) if the surviving or resulting corporation is a wholly owned subsidiary of another corporation immediately following such merger or consolidation, the parent corporation of such surviving or resulting corporation; provided, in all such instances, that the Class B Preferred Stock and in which the preferences of the Class B Preferred Stock remain in substance and in rights the same.

*RAM*

(b) (1) the sale, lease, transfer or other disposition, in a single transaction or series of related transactions, by the Corporation or any subsidiary of the Corporation of all or substantially all of the assets of the Corporation and its subsidiaries taken as a whole, or (2) the sale or disposition (whether by merger, consolidation or otherwise, and whether in a single transaction or a series of related transactions) of one or more subsidiaries of the Corporation if substantially all of the assets of the Corporation and its subsidiaries taken as a whole are held by such subsidiary or subsidiaries, except where such sale, lease, transfer, exclusive license or other disposition is to a wholly owned subsidiary of the Corporation, and in which the preferences of the Class B Preferred Stock remain in substance and in rights the same, or

(c) (1) a sale of the Corporation, (2) a debt recapitalization, or (3) a sale of an investor seeking liquidity to sell all or part of its shares to a third party, but shall not include a put by any shareholder or a call right on any of shareholders

#### 2.4.2. Effecting a Deemed Liquidation Event.

(a) The Corporation shall not have the power to effect a Deemed Liquidation Event referred to in Section 2.4.1(a)(i) unless the agreement or plan of merger or consolidation for such transaction (the "Merger Agreement") provides that the consideration payable to the shareholders of the Corporation in such Deemed Liquidation Event shall be paid to the holders of capital stock of the Corporation in accordance with Sections 2.1, 2.2 and 2.3.


(b) In the event of a Deemed Liquidation Event referred to in Section 2.4.1(a)(ii) or 2.4.1(b), if the Corporation does not effect a dissolution of the

Corporation under the Business Corporation Act within ninety (90) days after such Deemed Liquidation Event, then (i) the Corporation shall send a written notice to each holder of Preferred Stock no later than the ninetieth (90<sup>th</sup>) day after the Deemed Liquidation Event advising such holders of their right (and the requirements to be met to secure such right) pursuant to the terms of the following clause; (ii) to require the redemption of such shares of Preferred Stock, and (iii) if the Requisite Holders so request in a written instrument delivered to the Corporation not later than one hundred twenty (120) days after such Deemed Liquidation Event, the Corporation shall use the consideration received by the Corporation for such Deemed Liquidation Event (net of any retained liabilities associated with the assets sold or technology licensed, as determined in good faith by the Corporation's Board of Directors (the "Board of Directors"), together with any other assets of the Corporation available for distribution to its shareholders, all to the extent permitted by Section 607.1405 of the Business Corporation Act (the "Available Proceeds"), on the one hundred fiftieth (150<sup>th</sup>) day after such Deemed Liquidation Event, to redeem all outstanding shares of Preferred Stock at a price per share equal to the Liquidation Amount. Notwithstanding the foregoing, in the event of a redemption pursuant to the preceding sentence, if the Available Proceeds are not sufficient to redeem all outstanding shares of Preferred Stock, the Corporation shall redeem a pro rata portion of each holder's shares of Preferred Stock to the fullest extent of such Available Proceeds, but in accordance with the preferences provided for in Sections 2.1 and 2.2, based on the respective amounts which would otherwise be payable in respect of the shares to be redeemed, on a per class basis, if the Available Proceeds were sufficient to redeem all shares, on a per class basis, and shall redeem the remaining shares as soon as it may lawfully do so under Section 607.1405 of the Business Corporation Act. For purposes of clarity, no shares of Class A Preferred Stock shall be redeemed pursuant to this Section 2.4.2 until all Shares of Class B Preferred Stock are redeemed and paid in full. Prior to the distribution or redemption provided for in this Section 2.4.2(b), the Corporation shall not expend or dissipate the consideration received for such Deemed Liquidation Event, except to discharge expenses incurred in connection with such Deemed Liquidation Event or in the ordinary course of business.

2.4.3. Amount Deemed Paid or Distributed. The amount deemed paid or distributed to the holders of capital stock of the Corporation upon any such merger, consolidation, sale, transfer, exclusive license, other disposition or redemption shall be the cash or the market value of the property, rights or securities to be paid or distributed to such holders pursuant to such Deemed Liquidation Event. The market value of such property, rights or securities shall be determined in good faith by the Board of Directors. If there is a dispute on the market value between the Class B Director (as defined below) and the other Board of Director members, a third party valuation will be requested by the mutual consent of the majority of the members of the Board of Directors and the Class B Director (as defined below), in which the market value of the property, rights or securities to be paid or distributed could be turned into cash within a reasonable period of time not to exceed 5 working days.

2.4.4. Allocation of Escrow and Contingent Consideration. In the event of a Deemed Liquidation Event pursuant to Section 2.4.1(a)(i), if any portion of the consideration payable to the shareholders of the Corporation is payable only upon satisfaction of contingencies (the "Additional Consideration"), the Merger Agreement shall provide that (a) the portion of such consideration that is not Additional Consideration (such portion, the "Initial Consideration") shall be allocated among the holders of capital stock of the Corporation in accordance with Sections 2.1, 2.2 and 2.3 as if the Initial Consideration were the only consideration payable in connection with such Deemed Liquidation Event; and (b) any Additional Consideration which becomes payable to the shareholders of the Corporation upon satisfaction of such contingencies shall be allocated among the holders of capital stock of the Corporation in accordance with Sections 2.1, 2.2 and 2.3 after taking into account the previous payment of the Initial Consideration as part of the same transaction. For the purposes of this Section 2.4.4, consideration placed into escrow or retained as a holdback to be available for satisfaction of indemnification or similar obligations in connection with such Deemed Liquidation Event shall be deemed to be Initial Consideration.

3. Voting.

 3.1. General. On any matter presented to the shareholders of the Corporation for their action or consideration at any meeting of shareholders of the Corporation (or by written consent of shareholders in lieu of meeting), each holder of outstanding shares of Preferred Stock shall be entitled to cast the number of votes equal to one (1) times the number of whole shares of Class A Common Stock into which the shares of Preferred Stock held by such holder are convertible as of the record date for determining shareholders entitled to vote on such matter. Except as provided by law or by the other provisions of these Articles, holders of Preferred Stock shall vote together with the holders of Common Stock as a single class and as though the Preferred Stock had converted into Class A Common Stock.

3.2. Election of Directors. The holders of record of the shares of Class B Preferred Stock, exclusively and as a separate class, shall be entitled to elect one (1) director of the Corporation (the "Class B Director" or the "Advent Director") and one (1) independent director for so long as the holders of Class B Preferred Stock (a) hold at least 7.50% of the Corporation's outstanding Class A Common Stock (treating for this purpose all shares of Class A Common Stock issuable upon exercise of or conversion of all securities or other rights convertible into, or exercisable or exchangeable for (in each case, directly or indirectly), Class A Common Stock as if exercised or converted, but excluding any shares of Class A Common Stock issuable upon exercise of stock options) or (b) have made capital contributions in cash to the Corporation that are at least twenty percent (20%) of the Corporation's aggregate paid-in capital (across all classes or series of the Corporation's capital stock) paid in cash, the holders of record of the shares of Common Stock, exclusively and voting together as a single class, shall be entitled to elect

three (3) directors of the Corporation; and the holders of record of the shares of Class B Preferred Stock and Common Stock, exclusively and voting together as a single class, shall be entitled to elect one (1) director of the Corporation. The Class B Director shall be a member of all subcommittees of the Board of Directors. The holders of record of the shares of Class B Preferred Stock, exclusively and as a separate class, shall be entitled to have an observer present at all meetings of the Board of Directors or Board of Directors committee meetings, as a non-voting observer. Any director elected as provided in the preceding sentence may be removed without cause by, and only by, the affirmative vote of the holders of the shares of the class or series of capital stock entitled to elect such director or directors, given either at a special meeting of such shareholders duly called for that purpose or pursuant to a written consent of shareholders. If the holders of shares of Class B Preferred Stock or Common Stock, as the case may be, fail to elect a sufficient number of directors to fill all directorships for which they are entitled to elect directors, voting exclusively and as a separate class, pursuant to the first sentence of this Section 3.2, then any directorship not so filled shall remain vacant until such time as the holders of the Class B Preferred Stock or Common Stock, as the case may be, elect a person to fill such directorship by vote or written consent in lieu of a meeting; and no such directorship may be filled by shareholders of the Corporation other than by the shareholders of the Corporation that are entitled to elect a person to fill such directorship, voting exclusively and as a separate class. The holders of record of the shares of Common Stock and of any other class or series of voting stock (including the Preferred Stock), exclusively and voting together as a single class, shall be entitled to elect the balance of the total number of directors of the Corporation. At any meeting held for the purpose of electing a director, the presence in person or by proxy of the holders of a majority of the outstanding shares of the class or series entitled to elect such director shall constitute a quorum for the purpose of electing such director. Except as otherwise provided in this Section 3.2, a vacancy in any directorship filled by the holders of any class or series shall be filled only by vote or written consent in lieu of a meeting of the holders of such class or series or by any remaining director or directors elected by the holders of such class or series pursuant to this Section 3.2.

3.3. Class B Preferred Stock Protective Provisions. For so long as the holders of Class B Preferred Stock (a) hold at least 7.50% of the Corporation's outstanding Class A Common Stock (treating for this purpose all shares of Class A Common Stock issuable upon exercise of or conversion of all securities or other rights convertible into, or exercisable or exchangeable for (in each case, directly or indirectly), Class A Common Stock as if exercised or converted, but excluding any shares of Class A Common Stock issuable upon exercise of stock options) or (b) have made capital contributions in cash to the Corporation that are at least twenty percent (20%) of the Corporation's aggregate paid-in capital (across all classes or series of the Corporation's capital stock) paid in cash, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or these Articles) the written consent or



affirmative vote of the holders of a majority of the outstanding shares of Class B Preferred Stock given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect;

3.3.1. liquidate, dissolve or wind-up the business and affairs of the Corporation or effect any merger or consolidation or any other Deemed Liquidation Event if, in connection with such liquidation, dissolution, winding up, merger, consolidation or other Deemed Liquidation Event, the proceeds or consideration that is paid or would be payable to the holders of Class B Preferred Stock per share of Class B Preferred Stock is less than two (2) times the Class B Preferred Original Issue Price;

3.3.2. create, or authorize the creation of, or issue or obligate itself to issue shares of, any additional class or series of capital stock unless the same ranks junior to the Class B Preferred Stock with respect to the distribution of assets on the liquidation, dissolution or winding up of the Corporation, the payment of dividends and rights of redemption; or

*2011*  
3.3.3. create, or authorize the creation of, or issue, or authorize the issuance of any debt security or create any lien or security interest (except for purchase money liens or statutory liens of landlords, mechanics, materialmen, workmen, warehousemen and other similar persons arising or incurred in the ordinary course of business) or incur other indebtedness for borrowed money, if the aggregate indebtedness of the Corporation and its subsidiaries for borrowed money following such action would exceed the higher of (i) \$2,500,000 or (ii) three (3) times the Corporation's trailing twelve (12) month normalized earnings before interest, tax, depreciation and amortization ("EBITDA"), other than (x) trade payables incurred in the ordinary course of business, (x) non-recourse equipment leases approved by the Board of Directors, including the Class B Director, (y) bank lines of credit not to exceed \$500,000 approved by the Board of Directors, including the approval of the Class B Director (any such trade payable, equipment lease or bank line of credit, "Excluded Debt"); provided that Excluded Debt shall be excluded from the calculation of aggregate indebtedness for purposes of this Section 3.3.3; provided further, that EBITDA shall be calculated in accordance with U.S. generally accepted accounting principles as then in effect, as adjusted for any future events that the Corporation knows with certainty (including, without limitation, the cancelation of contracts or the known increases in operating costs) will occur over the subsequent twelve (12) months and that would have the effect of reducing EBITDA, but excluding any one-time or other non-recurring earnings, expenses or other accounting line items.

#### 4. Optional Conversion.

The holders of the Preferred Stock shall have conversion rights as follows (the "Conversion Rights"):

4.1. Right to Convert.

4.1.1. Conversion Rate. Each share of Preferred Stock shall be convertible, at the option of the holder thereof, at any time and from time to time, and without the payment of additional consideration by the holder thereof, into such number of fully paid and non-assessable shares of Class A Common Stock as is determined by dividing the applicable Original Issue Price by the applicable Conversion Price (as defined below) in effect at the time of conversion. The "Class A Conversion Price" shall initially be equal to the Class A Preferred Original Issue Price. The "Class B Conversion Price" shall initially be equal to the Class B Preferred Original Issue Price. The "Conversion Price" shall mean, as applicable, (i) with respect to the Class A Preferred Stock, the Class A Conversion Price and (ii) with respect to the Class B Preferred Stock, the Class B Conversion Price. The Conversion Price of a class of Preferred Stock, and the rate at which shares of such class may be converted into shares of Class A Common Stock, shall be subject to adjustment as provided below.

4.1.2. Termination of Conversion Rights. In the event of a liquidation, dissolution or winding up of the Corporation or a Deemed Liquidation Event, the Conversion Rights shall terminate at the close of business on the last full day preceding the date fixed for the payment of any such amounts distributable on such event to the holders of Preferred Stock.

4.2. Fractional Shares. No fractional shares of Class A Common Stock shall be issued upon conversion of the Preferred Stock. In lieu of any fractional shares to which the holder would otherwise be entitled, the Corporation shall pay cash equal to such fraction multiplied by the fair market value of a share of Class A Common Stock as determined in good faith by the Board of Directors. Whether or not fractional shares would be issuable upon such conversion shall be determined on the basis of the total number of shares of Preferred Stock the holder is at the time converting into Class A Common Stock and the aggregate number of shares of Class A Common Stock issuable upon such conversion.

4.3. Mechanics of Conversion.

4.3.1. Notice of Conversion. In order for a holder of Preferred Stock to voluntarily convert shares of Preferred Stock into shares of Class A Common Stock, such holder shall (a) provide written notice to the Corporation's transfer agent at the office of the transfer agent for the Preferred Stock (or at the principal office of the Corporation if the Corporation serves as its own transfer agent) that such holder elects to convert all or any number of such holder's shares of Preferred Stock and, if applicable, any event on which such conversion is contingent and (b), if such holder's shares are certificated, surrender the certificate or certificates for such shares of Preferred Stock (or, if such registered holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to

indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate), at the office of the transfer agent for the Preferred Stock (or at the principal office of the Corporation if the Corporation serves as its own transfer agent). Such notice shall state such holder's name or the names of the nominees in which such holder wishes the shares of Class A Common Stock to be issued. If required by the Corporation, any certificates surrendered for conversion shall be endorsed or accompanied by a written instrument or instruments of transfer, in form satisfactory to the Corporation, duly executed by the registered holder or his, her or its attorney duly authorized in writing. The close of business on the date of receipt by the transfer agent (or by the Corporation if the Corporation serves as its own transfer agent) of such notice and, if applicable, certificates (or lost certificate affidavit and agreement) shall be the time of conversion (the "Conversion Time"), and the shares of Class A Common Stock issuable upon conversion of the specified shares shall be deemed to be outstanding of record as of such date. The Corporation shall, as soon as practicable after the Conversion Time (i) issue and deliver to such holder of Preferred Stock, or to his, her or its nominees, a certificate or certificates for the number of full shares of Class A Common Stock issuable upon such conversion in accordance with the provisions hereof and a certificate for the number (if any) of the shares of Preferred Stock represented by the surrendered certificate that were not converted into Class A Common Stock, (ii) pay in cash such amount as provided in Section 4.2 in lieu of any fraction of a share of Class A Common Stock otherwise issuable upon such conversion and (iii) pay all declared but unpaid dividends on the shares of Preferred Stock converted.

4.3.2. Reservation of Shares. The Corporation shall at all times when the Preferred Stock shall be outstanding, reserve and keep available out of its authorized but unissued capital stock, for the purpose of effecting the conversion of the Preferred Stock, such number of its duly authorized shares of Class A Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding Preferred Stock; and if at any time the number of authorized but unissued shares of Class A Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Preferred Stock, the Corporation shall take such corporate action as may be necessary to increase its authorized but unissued shares of Class A Common Stock to such number of shares as shall be sufficient for such purposes, including, without limitation, engaging in best efforts to obtain the requisite shareholder approval of any necessary amendment to these Articles. Before taking any action which would cause an adjustment reducing the Conversion Price below the then par value of the shares of Class A Common Stock issuable upon conversion of the Preferred Stock, the Corporation will take any corporate action which may, in the opinion of its counsel, be necessary in order that the Corporation may validly and legally issue fully paid and non-assessable shares of Class A Common Stock at such adjusted Conversion Price.

4.3.3. Effect of Conversion. All shares of Preferred Stock which shall have been surrendered for conversion as herein provided shall no longer be deemed

to be outstanding and all rights with respect to such shares shall immediately cease and terminate at the Conversion Time, except only the right of the holders thereof to receive shares of Class A Common Stock in exchange therefor, to receive payment in lieu of any fraction of a share otherwise issuable upon such conversion as provided in Section 4.2 and to receive payment of any dividends declared but unpaid thereon. Any shares of a class or series of Preferred Stock so converted shall be retired and cancelled and may not be reissued as shares of such class or series, and the Corporation may thereafter take such appropriate action (without the need for shareholder action) as may be necessary to reduce the authorized number of shares of such class or series accordingly.

4.3.4. No Further Adjustment. Upon any such conversion, no adjustment to the Conversion Price shall be made for any declared but unpaid dividends on the Preferred Stock surrendered for conversion or on the Class A Common Stock delivered upon conversion.

4.3.5. Taxes. The Corporation shall pay any and all issue and other similar taxes that may be payable in respect of any issuance or delivery of shares of Class A Common Stock upon conversion of shares of Preferred Stock pursuant to this Section 4. The Corporation shall not, however, be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of shares of Class A Common Stock in a name other than that in which the shares of Preferred Stock so converted were registered, and no such issuance or delivery shall be made unless and until the person or entity requesting such issuance has paid to the Corporation the amount of any such tax or has established, to the satisfaction of the Corporation, that such tax has been paid.

4.4. Adjustments to Conversion Price for Diluting Issues.

4.4.1. Special Definitions. For purposes of this Article Fourth, the following definitions shall apply:

(a) "Option" shall mean rights, options or warrants to subscribe for, purchase or otherwise acquire Common Stock or Convertible Securities.

(b) "Class B Original Issue Date" shall mean the date on which the first share of Class B Preferred Stock was issued.

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

(d) "Additional Shares of Common Stock" shall mean all shares of Common Stock issued (or, pursuant to Section 4.4.2 below, deemed to be issued) by the Corporation after the Class B Original Issue Date, other than (1) the


following shares of Common Stock and (2) shares of Common Stock deemed issued pursuant to the following Options and Convertible Securities (clauses (1) and (2), collectively, "Exempted Securities"):

- (i) shares of Common Stock, Options or Convertible Securities issued as a dividend or distribution on Preferred Stock;
- (ii) shares of Common Stock, Options or Convertible Securities issued by reason of a dividend, stock split, split-up or other distribution on shares of Common Stock that is covered by Sections 4.5, 4.6, 4.7 or 4.8;
- (iii) shares of Common Stock or Options issued to employees or directors of, or consultants or advisors to, the Corporation or any of its subsidiaries pursuant to a plan, agreement or arrangement approved by the Board of Directors but in no event representing in excess of 10% of the total issued and outstanding shares of Common Stock;
- (iv) shares of Common Stock or Convertible Securities actually issued upon the exercise of Options or shares of Common Stock actually issued upon the conversion or exchange of Convertible Securities, in each case provided such issuance is pursuant to the terms of such Option or Convertible Security approved by the Board of Directors and in accordance with (i), (ii), (iii) above;
- (v) shares of Common Stock, Options or Convertible Securities issued to banks, equipment lessors or other financial institutions, or to real property lessors, pursuant to a debt financing, equipment leasing or real property leasing transaction approved by the Board of Directors including the affirmative vote of the Advent Director;
- (vi) shares of Common Stock, Options or Convertible Securities issued to suppliers or third-party service providers in connection with the provision of goods or services pursuant to transactions approved by the

*2011*

Board of Directors including the affirmative vote of the Advent Director;

- (vii) shares of Common Stock, Options or Convertible Securities issued as acquisition consideration pursuant to the acquisition of another corporation by the Corporation by merger, purchase of substantially all of the assets or other reorganization or to a joint venture agreement, provided that such issuances are approved by the Board of Directors including the affirmative vote of the Advent Director; or
- (viii) shares of Common Stock, Options or Convertible Securities issued in connection with sponsored research, collaboration, technology license, development, OEM, marketing or other similar agreements or strategic partnerships approved by the Board of Directors including the affirmative vote of the Advent Director.

 4.4.2. No Adjustment of Class B Conversion Price. No adjustment in the Class B Conversion Price shall be made as the result of the issuance or deemed issuance of Additional Shares of Common Stock if the Corporation receives written notice from the holders of a majority of the outstanding shares of Class B Preferred Stock agreeing that no such adjustment shall be made as the result of the issuance or deemed issuance of such Additional Shares of Common Stock.

4.4.3. Deemed Issue of Additional Shares of Common Stock.

(a) If the Corporation at any time or from time to time after the Class B Original Issue Date shall issue any Options or Convertible Securities (excluding Options or Convertible Securities which are themselves Exempted Securities) or shall fix a record date for the determination of holders of any class 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, assuming the satisfaction of any conditions to exercisability, convertibility or exchangeability but 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 therefor, 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.

(b) If the terms of any Option or Convertible Security, the issuance of which resulted in an adjustment to the Class B Conversion Price pursuant to the terms of Section 4.4.4, are revised as a result of an amendment to such terms or any other adjustment pursuant to the provisions of such Option or Convertible Security (but excluding automatic adjustments to such terms pursuant to anti-dilution or similar provisions of such Option or Convertible Security) to provide for either (1) any increase in the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any such Option or Convertible Security or (2) any decrease in the consideration payable to the Corporation upon such exercise, conversion and/or exchange, then, effective upon such increase or decrease becoming effective, as the case may be, the Class B Conversion Price computed upon the original issue of such Option or Convertible Security (or upon the occurrence of a record date with respect thereto) shall be readjusted to such Class B Conversion Price as would have been obtained had such revised terms been in effect upon the original date of issuance of such Option or Convertible Security. Notwithstanding the foregoing, no readjustment pursuant to this clause (b) shall have the effect of increasing the Class B Conversion Price to an amount which exceeds the lower of (i) the Class B Conversion Price in effect immediately prior to the original adjustment made as a result of the issuance of such Option or Convertible Security, or (ii) the Class B Conversion Price that would have resulted from any issuances of Additional Shares of Common Stock (other than deemed issuances of Additional Shares of Common Stock as a result of the issuance of such Option or Convertible Security) between the original adjustment date and such readjustment date.

(c) If the terms of any Option or Convertible Security (excluding Options or Convertible Securities which are themselves Exempted Securities), the issuance of which did not result in an adjustment to the Class B Conversion Price pursuant to the terms of Section 4.4.4 (either because the consideration per share (determined pursuant to Section 4.4.5) of the Additional Shares of Common Stock subject thereto was equal to or greater than the Class B Conversion Price then in effect, or because such Option or Convertible Security was issued before the Class B Original Issue Date), are revised after the Class B Original Issue Date as a result of an amendment to such terms or any other adjustment pursuant to the provisions of such Option or Convertible Security (but excluding automatic adjustments to such terms pursuant to anti-dilution or similar provisions of such Option or Convertible Security) to provide for either (1) any increase in the number of shares of Common Stock issuable upon the exercise, conversion or exchange of any such Option or Convertible Security or (2) any decrease in the consideration payable to the Corporation upon such exercise, conversion or exchange, then such Option or Convertible Security, as so amended or adjusted, and the Additional Shares of Common Stock subject thereto (determined in the manner provided in Section 4.4.3(a)) shall be deemed to have been issued effective upon such increase or decrease becoming effective.


(d) Upon the expiration or termination of any unexercised Option or unconverted or unexchanged Convertible Security (or portion thereof) which resulted (either upon its original issuance or upon a revision of its terms) in an adjustment to the Class B Conversion Price pursuant to the terms of Section 4.4.4, the Class B Conversion Price shall be readjusted to such Class B Conversion Price as would have been obtained had such Option or Convertible Security (or portion thereof) never been issued.

*RM*  
(e) If the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any Option or Convertible Security, or the consideration payable to the Corporation upon such exercise, conversion and/or exchange, is calculable at the time such Option or Convertible Security is issued or amended but is subject to adjustment based upon subsequent events, any adjustment to the Class B Conversion Price provided for in this Section 4.4.3 shall be effected at the time of such issuance or amendment based on such number of shares or amount of consideration without regard to any provisions for subsequent adjustments (and any subsequent adjustments shall be treated as provided in clauses (b) and (c) of this Section 4.4.3). If the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any Option or Convertible Security, or the consideration payable to the Corporation upon such exercise, conversion and/or exchange, cannot be calculated at all at the time such Option or Convertible Security is issued or amended, any adjustment to the Class B Conversion Price that would result under the terms of this Section 4.4.3 at the time of such issuance or amendment shall instead be effected at the time such number of shares and/or amount of consideration is first calculable (even if subject to subsequent adjustments), assuming for purposes of calculating such adjustment to the Class B Conversion Price that such issuance or amendment took place at the time such calculation can first be made.

4.4.4. Adjustment of Class B Conversion Price Upon Issuance of Additional Shares of Common Stock. If the Corporation shall at any time after the Class B Original Issue Date issue Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Section 4.4.3), without consideration or for a consideration per share less than the Class B Conversion Price in effect immediately prior to such issuance or deemed issuance, then the Class B Conversion Price shall be reduced, concurrently with such issuance or deemed issuance, to the consideration per share received by the Corporation for such issuance or deemed issuance of the Additional Shares of Common Stock; provided that if such issuance or deemed issuance was without consideration, then the Corporation shall be deemed to have received an aggregate of \$.01 of consideration for all such Additional Shares of Common Stock issued or deemed to be issued.



4.4.5. Determination of Consideration. For purposes of this Section 4.4, the consideration received by the Corporation for the issuance or deemed issuance of any Additional Shares of Common Stock shall be computed as follows:


- 
- (a) Cash and Property: Such consideration shall:
    - (i) insofar as it consists of cash, be computed at the aggregate amount of cash received by the Corporation, excluding amounts paid or payable for accrued interest;
    - (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 of Directors including the affirmative vote of the Advent Director, who may require that an independent valuator be selected by the Board of Directors including the affirmative vote of the Advent Director; 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 of Directors including the affirmative vote of the Advent Director, who may require that an independent valuator be selected by the Board of Directors including the affirmative vote of the Advent Director.

(b) 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 4.4.3, 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, 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.




4.4.6. Multiple Closing Dates. In the event the Corporation shall issue on more than one date Additional Shares of Common Stock that are a part of one transaction or a series of related transactions and that would result in an adjustment to the Class B Conversion Price pursuant to the terms of Section 4.4.4, and such issuance dates occur within a period of no more than three hundred and sixty five (365) days from the first such issuance to the final such issuance, then, upon the final such issuance, the Class B Conversion Price shall be readjusted to give effect to all such issuances as if they occurred on the date of the first such issuance (and without giving effect to any additional adjustments as a result of any such subsequent issuances within such period).

4.5. Adjustment for Stock Splits and Combinations. If the Corporation shall at any time or from time to time after the Class B Original Issue Date effect a subdivision of the outstanding Common Stock, the applicable Conversion Price in effect immediately before that subdivision shall be proportionately decreased so that the number of shares of Class A Common Stock issuable on conversion of each share of the applicable class or series of Preferred Stock shall be increased in proportion to such increase in the aggregate number of shares of Common Stock outstanding. If the Corporation shall at any time or from time to time after the Class B Original Issue Date combine the outstanding shares of Common Stock, the Conversion Price in effect immediately before the combination shall be proportionately increased so that the number of shares of Class A Common Stock issuable on conversion of each share of the applicable class or series of Preferred Stock shall be decreased in proportion to such decrease in the aggregate number of shares of Common Stock outstanding. Any adjustment under this Section 4.5 shall become effective at the close of business on the date the subdivision or combination becomes effective.

4.6. Adjustment for Certain Dividends and Distributions. In the event the Corporation at any time or from time to time after the Class B Original Issue Date shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable on the Common Stock in additional shares of Common Stock, then and in each such event the Conversion Price in effect immediately before such event shall be decreased as of the time of such issuance or, in the event such a record date shall have been fixed, as of the close of business on such record date, by multiplying the applicable Conversion Price then in effect by a fraction:

(1) the numerator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date, and


(2) the denominator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date plus the number of shares of Common Stock issuable in payment of such dividend or distribution.

 Notwithstanding the foregoing (a) if such record date shall have been fixed and such dividend is not fully paid or if such distribution is not fully made on the date fixed therefor, the Conversion Price shall be recomputed accordingly as of the close of business on such record date and thereafter the applicable Conversion Price shall be adjusted pursuant to this Section as of the time of actual payment of such dividends or distributions; and (b) no such adjustment shall be made if the holders of Preferred Stock simultaneously receive a dividend or other distribution of shares of Common Stock in a number equal to the number of shares of Class A Common Stock as they would have received if all outstanding shares of Preferred Stock had been converted into Class A Common Stock on the date of such event.

4.7. Adjustments for Other Dividends and Distributions. If the Corporation at any time or from time to time after the Class B Original Issue Date shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable in securities of the Corporation (other than a distribution of shares of Common Stock in respect of outstanding shares of Common Stock) or in other property and the provisions of Section 1 do not apply to such dividend or distribution, then and in each such event the holders of Preferred Stock shall receive, simultaneously with the distribution to the holders of Common Stock, a dividend or other distribution of such securities or other property in an amount equal to the amount of such securities or other property as they would have received if all outstanding shares of Preferred Stock had been converted into Class A Common Stock on the date of such event.

4.8. Adjustment for Merger or Reorganization, etc. Subject to the provisions of Section 2, if there shall occur any reorganization, recapitalization,

reclassification, consolidation or merger involving the Corporation in which the Common Stock (but not the Preferred Stock) is converted into or exchanged for securities, cash or other property (other than a transaction covered by Sections 4.4, 4.6 or 4.7), then, following any such reorganization, recapitalization, reclassification, consolidation or merger, each share of Preferred Stock shall thereafter be convertible in lieu of the Class A Common Stock into which it was convertible prior to such event into the kind and amount of securities, cash or other property which a holder of the number of shares of Class A Common Stock of the Corporation issuable upon conversion of one share of Preferred Stock immediately prior to such reorganization, recapitalization, reclassification, consolidation or merger would have been entitled to receive pursuant to such transaction; 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 4 with respect to the rights and interests thereafter of the holders of the Preferred Stock, to the end that the provisions set forth in this Section 4 (including provisions with respect to changes in and other adjustments of the Conversion Price) shall thereafter be applicable, as nearly as reasonably may be, in relation to any securities or other property thereafter deliverable upon the conversion of the Preferred Stock.

 4.9. Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the applicable Conversion Price pursuant to this Section 4, the Corporation at its expense shall, as promptly as reasonably practicable but in any event not later than ten (10) days thereafter, compute such adjustment or readjustment in accordance with the terms hereof and furnish to each holder of Preferred Stock a certificate setting forth such adjustment or readjustment (including the kind and amount of securities, cash or other property into which the Preferred Stock is convertible) and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, as promptly as reasonably practicable after the written request at any time of any holder of Preferred Stock (but in any event not later than ten (10) days thereafter), furnish or cause to be furnished to such holder a certificate setting forth (i) the applicable Conversion Price then in effect, and (ii) the number of shares of Class A Common Stock and the amount, if any, of other securities, cash or property which then would be received upon the conversion of Preferred Stock.

4.10. Notice of Record Date. If:

(a) the Corporation shall take a record of the holders of its Common Stock (or other capital stock or securities at the time issuable upon conversion of the Preferred Stock) for the purpose of entitling or enabling them to receive any dividend or other distribution, or to receive any right to subscribe for or purchase any shares of capital stock of any class or any other securities, or to receive any other security; or

(b) of any capital reorganization of the Corporation, any reclassification of the Common Stock of the Corporation, or any Deemed Liquidation Event; or


(c) of the voluntary or involuntary dissolution, liquidation or winding-up of the Corporation.

then, and in each such case, the Corporation will send or cause to be sent to the holders of the Preferred Stock a notice specifying, as the case may be, (i) the record date for such dividend, distribution or right, and the amount and character of such dividend, distribution or right, or (ii) the effective date on which such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation or winding-up is proposed to take place, and the time, if any is to be fixed, as of which the holders of record of Class A Common Stock (or such other capital stock or securities at the time issuable upon the conversion of the Preferred Stock) shall be entitled to exchange their shares of Class A Common Stock (or such other capital stock or securities) for securities or other property deliverable upon such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation or winding-up, and the amount per share and character of such exchange applicable to the Preferred Stock and the Class A Common Stock. Such notice shall be sent at least ten (10) days prior to the record date or effective date for the event specified in such notice.

5. Mandatory Conversion.

*pan*  
5.1. Trigger Events. Upon either (a) the closing of the sale of shares of Common Stock to the public at a price per share of at least \$4.703 per share (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Common Stock), in a firm-commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, resulting in at least \$75,000,000 of gross proceeds, net of the underwriting discount and commissions, to the Corporation and in connection with such offering the Common Stock is listed for trading on the Nasdaq Stock Market's National Market, the New York Stock Exchange or (b) the date and time, or the occurrence of an event, specified by vote or written consent of the Requisite Holders (the time of such closing or the date and time specified or the time of the event specified in such vote or written consent is referred to herein as the "**Mandatory Conversion Time**"), then (i) all outstanding shares of Preferred Stock shall automatically be converted into shares of Class A Common Stock, at the then effective conversion rate as calculated pursuant to Section 4.1.1, and (ii) such shares may not be reissued by the Corporation.

5.2. Procedural Requirements. All holders of record of shares of Preferred Stock shall be sent written notice of the Mandatory Conversion Time and the place designated for mandatory conversion of all such shares of Preferred Stock pursuant to this Section 5. Such notice need not be sent in advance of the occurrence of the

 Mandatory Conversion Time. Upon receipt of such notice, each holder of shares of Preferred Stock in certificated form shall surrender his, her or its certificate or certificates for all such shares (or, if such holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate) to the Corporation at the place designated in such notice. If so required by the Corporation, any certificates surrendered for conversion shall be endorsed or accompanied by written instrument or instruments of transfer, in form satisfactory to the Corporation, duly executed by the registered holder or by his, her or its attorney duly authorized in writing. All rights with respect to the Preferred Stock converted pursuant to Section 5.1, including the rights, if any, to receive notices and vote (other than as a holder of Class A Common Stock), will terminate at the Mandatory Conversion Time (notwithstanding the failure of the holder or holders thereof to surrender any certificates at or prior to such time), except only the rights of the holders thereof, upon surrender of any certificate or certificates of such holders (or lost certificate affidavit and agreement) therefor, to receive the items provided for in the next sentence of this Section 5.2. As soon as practicable after the Mandatory Conversion Time and, if applicable, the surrender of any certificate or certificates (or lost certificate affidavit and agreement) for Preferred Stock, the Corporation shall (a) issue and deliver to such holder, or to his, her or its nominees, a certificate or certificates for the number of full shares of Class A Common Stock issuable on such conversion in accordance with the provisions hereof and (b) pay cash as provided in Section 4.2 in lieu of any fraction of a share of Class A Common Stock otherwise issuable upon such conversion and the payment of any declared but unpaid dividends on the shares of Preferred Stock converted. Such converted Preferred Stock shall be retired and cancelled and may not be reissued as shares of the applicable class or series of Preferred Stock, and the Corporation may thereafter take such appropriate action (without the need for shareholder action) as may be necessary to reduce the authorized number of shares of Preferred Stock accordingly.


6. Redeemed or Otherwise Acquired Shares. Any shares of Preferred Stock that are redeemed or otherwise acquired by the Corporation or any of its subsidiaries shall be automatically and immediately cancelled and retired and shall not be reissued, sold or transferred. Neither the Corporation nor any of its subsidiaries may exercise any voting or other rights granted to the holders of Preferred Stock following redemption.

7. Waiver. Except as otherwise set forth herein, any of the rights, powers, preferences and other terms of the Preferred Stock set forth herein may be waived on behalf of all holders of Preferred Stock by the affirmative written consent or vote of the Requisite Holders.

8. Notices. Any notice required or permitted by the provisions of this Article Fourth to be given to a holder of shares of Preferred Stock shall be mailed, postage

prepaid, to the post office address last shown on the records of the Corporation, and given by electronic communication in compliance with the provisions of the Business Corporation Act, and shall be deemed sent upon such mailing and electronic transmission.

5.: Subject to any additional vote required by these Articles or the Corporation's Bylaws (the "Bylaws"), in furtherance and not in limitation of the powers conferred by statute, the Board of Directors, is expressly authorized to make, repeal, alter, amend and rescind any or all of the Bylaws; provided, however that for so long as the holders of Class B Preferred Stock (a) hold at least 7.50% of the Corporation's outstanding Class A Common Stock (treating for this purpose all shares of Class A Common Stock issuable upon exercise of or conversion of all securities or other rights convertible into, or exercisable or exchangeable for (in each case, directly or indirectly), Class A Common Stock as if exercised or converted, but excluding any shares of Class A Common Stock issuable upon exercise of stock options) or (b) have made capital contributions in cash to the Corporation that are at least twenty percent (20%) of the Corporation's aggregate paid-in capital (across all classes or series of the Corporation's capital stock) paid in cash the affirmative vote of the Advent Director shall be necessary for any change, alteration, amendment, or rescindment of the Bylaws which may cause any harm or change to the rights of holders of record of the shares of Class B Preferred Stock.

 6.: Subject to any additional vote required by these Articles, the number of directors of the Corporation shall be determined in the manner set forth in the Bylaws. Each director shall be entitled to one vote on each matter presented to the Board of Directors; provided, however, that, so long as the holders of Class B Preferred Stock are entitled to elect a Class B Director, the affirmative vote of the Class B Director shall be required for the authorization by the Board of Directors of any of the matters set forth in Section 12 of the Shareholders' Agreement, dated as of March 12, 2020 by and among the Corporation and the other parties thereto, as such agreement may be amended from time to time.

7.: Elections of directors need not be by written ballot unless the Bylaws shall so provide.

8.: Meetings of shareholders may be held within or without the State of Florida, as the Bylaws may provide. The books of the Corporation may be kept outside the State of Florida at such place or places as may be designated from time to time by the Board of Directors or in the Bylaws.

9.: To the fullest extent permitted by law, a director of the Corporation shall not be personally liable to the Corporation or its shareholders for monetary damages for breach of fiduciary duty as a director. If the Business Corporation Act or any other law of the State of Florida is amended after approval by the shareholders of this Article Ninth to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the Business Corporation Act as so amended.

Any repeal or modification of the foregoing provisions of this Article Ninth by the shareholders of the Corporation shall not adversely affect any right or protection of a director of the Corporation existing at the time of, or increase the liability of any director of the Corporation with respect to any acts or omissions of such director occurring prior to, such repeal or modification.

10.: To the fullest extent permitted by applicable law, the Corporation shall provide indemnification of (and advancement of expenses to) directors of the Corporation through Bylaw provisions, agreements with such directors, vote of stockholders or disinterested directors or otherwise, in excess of the indemnification and advancement otherwise permitted by the Business Corporation Act. To the fullest extent permitted by applicable law, the Corporation is authorized to provide indemnification of (and advancement of expenses to) directors, officers and agents of the Corporation (and any other persons to which the Business Corporation Act permits the Corporation to provide indemnification) through Bylaw provisions, agreements with such agents or other persons, vote of shareholders or disinterested directors or otherwise, in excess of the indemnification and advancement otherwise permitted or required by Sections 607.0851, 607.0852, and 607.0853 of the Business Corporation Act.

Any amendment, repeal or modification of the foregoing provisions of this Article Tenth shall not (a) adversely affect any right or protection of any director, officer or other agent of the Corporation existing at the time of such amendment, repeal or modification or (b) increase the liability of any director of the Corporation with respect to any acts or omissions of such director, officer or agent occurring prior to, such amendment, repeal or modification.

11.: The Corporation renounces, to the fullest extent permitted by law, any interest or expectancy of the Corporation in, or in being offered an opportunity to participate in, any Excluded Opportunity. An "Excluded Opportunity" is any matter, transaction or interest that is presented to, or acquired, created or developed by, or which otherwise comes into the possession of (i) any director of the Corporation who is not an employee of the Corporation or any of its subsidiaries, or (ii) any holder of Preferred Stock or any partner, member, director, shareholder, employee, affiliate or agent of any such holder, other than someone who is an employee of the Corporation or any of its subsidiaries (collectively, the persons referred to in clauses (i) and (ii) are "Covered Persons"), unless such matter, transaction or interest is presented to, or acquired, created or developed by, or otherwise comes into the possession of, a Covered Person expressly and solely in such Covered Person's capacity as a director of the Corporation while such Covered Person is performing services in such capacity. Any repeal or modification of this Article Eleventh will only be prospective and will not affect the rights under this Article Eleventh in effect at the time of the occurrence of any actions or omissions to act giving rise to liability. Notwithstanding anything to the contrary contained elsewhere in these Articles, the affirmative vote of the Requisite Holders, will be required to amend or repeal, or to adopt any provisions inconsistent with this Article Eleventh.

12.: Unless the Corporation consents in writing to the selection of an alternative forum in accordance with Section 607.0208 of the Business Corporation Act, the Circuit Courts



of Miami-Dade County (the "Court") in the State of Florida shall be the sole and exclusive forum for any shareholder (including a beneficial owner) to bring (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action asserting a claim of breach of fiduciary duty owed by any director, officer or other employee of the Corporation to the Corporation or the Corporation's shareholders, (iii) any action asserting a claim against the Corporation, its directors, officers or employees arising pursuant to any provision of the Business Corporation Act or these Articles or the Bylaws or (iv) any action asserting a claim against the Corporation, its directors, officers or employees governed by the internal affairs doctrine, except for, as to each of (i) through (iv) above, any claim as to which the Court determines that there is an indispensable party not subject to the jurisdiction of the Court (and the indispensable party does not consent to the personal jurisdiction of the Court within ten days following such determination), which is vested in the exclusive jurisdiction of a court or forum other than the Court, or for which the Court does not have subject matter jurisdiction. If any provision or provisions of this Article Twelfth shall be held to be invalid, illegal or unenforceable as applied to any person or entity or circumstance for any reason whatsoever, then, to the fullest extent permitted by law, the validity, legality and enforceability of such provisions in any other circumstance and of the remaining provisions of this Article Twelfth (including, without limitation, each portion of any sentence of this Article Twelfth containing any such provision held to be invalid, illegal or unenforceable that is not itself held to be invalid, illegal or unenforceable) and the application of such provision to other persons or entities and circumstances shall not in any way be affected or impaired thereby.

#### **THIRTEENTH:**


(a) **Issuance of Additional Equity Securities.** The Corporation hereby grants to each holder of common stock and preferred stock of the Corporation (each, a "Pre-emptive Shareholder") the right to purchase its Pro Rata Portion of any new Equity Securities (other than any Excluded Securities) (the "New Securities") that the Corporation may from time to time propose to issue or sell to any party.

(b) **Additional Issuance Notices.** The Corporation shall give written notice (an "Issuance Notice") of any proposed issuance or sale described in subsection (a) above to the Pre-emptive Shareholders within five days following any meeting of the Board at which any such issuance or sale is approved. The Issuance Notice shall, if applicable, be accompanied by a written offer from any prospective purchaser seeking to purchase New Securities and shall set forth the material terms and conditions of the proposed issuance, including:

- (i) the number and description of the New Securities proposed to be issued and the percentage of the Corporation's outstanding Equity Securities such issuance would represent;
- (ii) the proposed issuance date, which shall be at least 20 days from the date of the Issuance Notice; and

(iii) the proposed purchase price per share.

(c) **Exercise of Pre-emptive Rights.** Each Pre-emptive Shareholder shall for a period of 15 days following the receipt of an Issuance Notice (the "Exercise Period") have the right to elect irrevocably to purchase its Pro Rata Portion of the New Securities at the purchase price set forth in the Issuance Notice by delivering a written notice to the Corporation. The closing of any purchase by any Pre-emptive Shareholder shall be consummated concurrently with the consummation of the issuance or sale described in the Issuance Notice; *provided, however,* that the closing of any purchase by any Pre-emptive Shareholder may be extended beyond the closing of the transaction in the Issuance Notice to the extent necessary to (i) obtain required government approvals and other required third party approvals or consents (and the Corporation and the Shareholders shall use their respective reasonable efforts to obtain such approvals) and (ii) permit the Pre-emptive Shareholders to complete their internal capital call process following the Exercise Period; *provided,* that the extension pursuant to this clause (ii) shall not exceed 60 days.


 (d) **Over-Allotment.** No later than five Business Days following the expiration of the Exercise Period, the Corporation shall notify each Pre-emptive Shareholder in writing of the number of New Securities that each Pre-emptive Shareholder has agreed to purchase (including, for the avoidance of doubt, where such number is zero) (the "Over-allotment Notice"). Each Pre-emptive Shareholder exercising its right to purchase its Pro Rata Portion of the New Securities in full (an "Exercising Shareholder") shall have a right of over-allotment such that if any other Pre-emptive Shareholder fails to exercise its right under this Article 13 to purchase its Pro Rata Portion of the New Securities (each, a "Non-Exercising Shareholder"), such Exercising Shareholder may purchase its Pro Rata Portion of such Non-Exercising Shareholder's allotment by giving written notice to the Corporation within five days of receipt of the Over-allotment Notice (the "Over-allotment Exercise Period").

(e) **Sales to the Prospective Buyer.** If any Pre-emptive Shareholder fails to purchase its allotment of the New Securities within the time period described in subsection (c) and after the expiration of the Over-allotment Exercise Period, the Corporation shall be free to complete the proposed issuance or sale of New Securities described in the Issuance Notice with respect to which Pre-emptive Shareholders failed to exercise the option set forth in this Article 13 on terms no less favorable to the Corporation than those set forth in the Issuance Notice (except that the amount of New Securities to be issued or sold by the Corporation may be reduced); *provided,* that (x) such issuance or sale is closed within 30 days after the expiration of the Over-allotment Exercise Period (subject to the extension of such 30 day period for a reasonable time not to exceed 60 days to the extent reasonably necessary to obtain any Government Approvals) and (y) for the avoidance of doubt, the price at which the New Securities are sold is at least equal to or higher than the purchase price described in the Issuance Notice. In the event the Corporation has not sold such New Securities within such time period, the Corporation shall not thereafter issue or sell any New Securities without first again offering such securities to the Shareholders in

accordance with the procedures set forth in this Article 13.

(f) **Closing of the Issuance.** Upon the issuance of any New Securities in accordance with this Article 13, the Corporation shall deliver to each Exercising Shareholder certificates (if any) evidencing the New Securities, which New Securities shall be issued free and clear of any liens (other than those arising hereunder and those attributable to the actions of the purchasers thereof), and the Corporation shall so represent and warrant to the purchasers thereof, and further represent and warrant to such purchasers that such New Securities shall be, upon issuance thereof to the Exercising Shareholders and after payment therefor, duly authorized, validly issued, fully paid and non-assessable. Each Exercising Shareholder shall deliver to the Corporation the purchase price for the New Securities purchased by it by certified or bank check or wire transfer of immediately available funds. Each party to the purchase and sale of New Securities shall take all such other actions as may be reasonably necessary to consummate the purchase and sale including, without limitation, entering into such additional agreements as may be necessary or appropriate.

For purposes of this Article 13, the following terms shall have the meanings set forth below:

 "Equity Securities" means any and all shares of Common Stock and any securities of the Company convertible into, or exchangeable or exercisable for, such shares, and options, warrants or other rights to acquire such shares.

"Pro Rata Portion" means, with respect to any Pre-emptive Stockholder, on any issuance date for New Securities, the number of New Securities equal to the product of (i) the total number of New Securities to be issued by the Company on such date and (ii) the fraction determined by dividing (x) the number of shares owned by such Pre-emptive Shareholder immediately prior to such issuance as though shares had been converted into Class A Common Stock (y) the total number of shares of the Corporation outstanding on such date immediately prior to such issuance as though shares had been converted into Class A Common Stock.

"Securities Act" means the Securities Act of 1933, as amended, or any successor Federal statute, and the rules and regulations thereunder which shall be in effect at the time.

\* \* \*

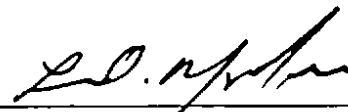
3. That the Board of Directors duly adopted resolutions adopting the foregoing amendment and restatement on March 12, 2020 declaring said amendment and restatement to be advisable and in the best interests of this corporation and its shareholders, and authorizing the appropriate officers of this corporation to solicit the consent of the shareholders therefor.

4. That the foregoing amendment and restatement was approved by the holders of the requisite number of shares of this corporation in accordance with Section 607.1003 of the Business Corporation Act. Specifically, and in accordance with Section 607.1004 of the Business Corporation Act, the amendment and restatement were approved by the requisite number of holders of shares of Common Stock and shares of Preferred Stock, Class A, each voting group entitled to vote separately and jointly on such amendment and restatement. For so long as the holders of Class B Preferred Stock (a) hold at least 7.50% of the Corporation's outstanding Class A Common Stock (treating for this purpose all shares of Class A Common Stock issuable upon exercise of or conversion of all securities or other rights convertible into, or exercisable or exchangeable for (in each case, directly or indirectly), Class A Common Stock as if exercised or converted, but excluding any shares of Class A Common Stock issuable upon exercise of stock options) or (b) have made capital contributions in cash to the Corporation that are at least twenty percent (20%) of the Corporation's aggregate paid-in capital (across all classes or series of the Corporation's capital stock) paid in cash the affirmative vote of the Requisite Holders shall be necessary for any change, alteration, amendment, restatements, modifications or rescindment of these Articles or Bylaws which may cause any harm or change to the rights of holders of record of the shares of Class B Preferred Stock.

5. That these Articles, which restate, consolidate all prior amendments, and further amend the provisions of this Corporation's Articles of Incorporation, have been duly adopted in accordance with Sections 607.1003 and 607.1007 of the Business Corporation Act.

IN WITNESS WHEREOF, these Second Amended and Restated Articles of Incorporation have been executed by a duly authorized officer of this corporation on this 12<sup>th</sup> day of March, 2020.

By:



Luis Mayendia, President