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**DATE:** 10/10/19

**NAME:** CEDARCREEK, INC.

**TYPE OF FILING:** MERGER

**COST:** 78.75

**RETURN:** CERTIFIED COPY PLEASE

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**ACCOUNT:** FCA000000015

**AUTHORIZATION:** ABBIE/PAUL HODGE

*Attache*

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*\* File First \**

October 9, 2019

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

**Re: Merger of CedarCreek Systems, Inc., a California corporation (the  
"Disappearing Entity"), into CedarCreek, Inc., a Florida corporation (the  
"Surviving Entity")**

To Whom it May Concern:

Enclosed please find the following documents and fees to effectuate the merger between the above-referenced corporations:

- Articles of Merger
- Agreement and Plan of Merger
- Amended and Restated Articles of Incorporation

Please note that the Surviving Entity will be assuming the name of the Disappearing Entity, CedarCreek Systems, Inc., effective as of the date of filing.

Please return all correspondence concerning this matter to:

Nicholas Wilhelm, Chairman  
CedarCreek Systems, Inc.  
515 N. Flagler Dr., Suite 408  
West Palm Beach, FL 33401

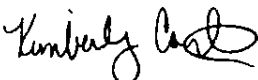
Email: [nwilhelm@cedarcreeksystems.com](mailto:nwilhelm@cedarcreeksystems.com)

For further information regarding this matter, please contact:

Kimberly Carter, Esq.  
(310) 210-9611  
[kcarter22@gmail.com](mailto:kcarter22@gmail.com)

Please provide a certified copy of the filed documents, for which an additional \$8.75 in fees has been included.

Best regards,



Kimberly Carter, Esq.

**ARTICLES OF MERGER**  
merging

**CedarCreek Systems, Inc.,**  
**a California corporation**

with and into

**CedarCreek, Inc.,**  
**a Florida corporation**

**FILED**

2019 OCT 10 A 9 26

DEPT. OF STATE  
TALLAHASSEE, FLORIDA

The following articles of merger are submitted in accordance with the Florida Business Corporation Act ("**FCBA**"), pursuant to section 607.1105, Florida Statutes.

1. The name and state of organization or incorporation of the "**Disappearing Entity**" is as follows:

CedarCreek Systems, Inc., a California corporation, Document No. F19000003477

2. The name and state of organization or incorporation of the "**Surviving Entity**" is as follows:


CedarCreek, Inc., a Florida corporation, Document No. 84-2358962

3. An Agreement and Plan of Merger, dated as of October 7 2019 by and among the Disappearing Entity and the Surviving Entity (the "**Plan of Merger**"), has been approved and by the shareholders of the Disappearing Entity on October 7, 2019 in accordance with the requirements of Section 607.1103 of the FCBA.
4. The Plan of Merger has been approved and by the shareholders of the Disappearing Entity on October 7, 2019 in accordance with the requirements of Section 607.1103 of the FCBA.
5. The executed Merger Agreement is attached and on file at the principal place of business of the Surviving Entity. The address of the principal place of business of the Surviving Entity is 515 N. Flagler Dr., Suite #408, West Palm Beach, FL 33401.
6. The merger shall become effective on the date the Articles of Merger are filed with the Florida Department of State.
7. The name of the Surviving Entity shall be CedarCreek Systems, Inc., pursuant to the Amended and Restated Articles of Incorporation dated October 7, 2019.
8. The Articles of Incorporation of CedarCreek Systems, Inc. shall be the Amended and Restated Articles of Incorporation dated October 7, 2019.

IN WITNESS WHEREOF, the Disappearing Entity and Surviving Entity cause this Certificate of Merger to be signed by the undersigned, their authorized officers, as of October 7, 2019.

**SURVIVING ENTITY**

**CedarCreek, Inc.**

By:  \_\_\_\_\_

Name: Nicholas Wilhelm  
Title: Chairman, Secretary

**DISAPPEARING ENTITY**

**CedarCreek Systems, Inc.**

By:  \_\_\_\_\_

Name: Nicholas Wilhelm  
Title: Chairman, Secretary

## AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER ("**Agreement**"), dated October 7, 2019, by and among CEDARCREEK SYSTEMS, INC., a California corporation ("**Disappearing Entity**"), and CEDARCREEK, INC., a Florida corporation (the "**Surviving Entity**").

### RECITALS

WHEREAS, the Board of Directors of Surviving Entity deem it advisable and in the best interests of each entity and their respective stockholders, that the Surviving Entity and the Disappearing Entity combine;

WHEREAS, the combination of the Surviving Entity and the Disappearing Entity shall be effected by the terms of this Agreement through a transaction in which the Disappearing Entity will merge with and into the Surviving Entity, with Surviving Entity as the surviving entity and with the corporate existences of Disappearing Entity ceasing (the "**Merger**"); and

WHEREAS, The Surviving Entity will assume the name "CedarCreek Systems, Inc." as provided in the Amended and Restated Articles of Incorporation filed with the Department of State of the State of Florida ("**Amended Articles**").

### AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the respective representations, warranties, covenants and agreements set forth below, the parties agree as follows:

### ARTICLE I THE MERGER

**1.1 Effective Time of the Merger.** Subject to the provisions of this Agreement, the articles of merger (the "**Articles of Merger**") in such form as is required by the relevant provision of the Florida Business Corporation Act (the "**FBCA**") shall be duly prepared, executed and delivered to the Department of State, for filing, as provided in the FBCA, on or as soon as practicable after the Closing Date, defined below. The Merger shall become effective upon the filing of the Articles of Merger with the Department of State of the State of Florida (the "**Effective Time**").

## **1.2 Effects of the Merger.**

(a) At the Effective Time the separate existence of the Disappearing Entity shall cease and the Disappearing Entity shall be merged simultaneously with and into the Surviving Entity.

(b) At and after the Effective Time, Surviving Entity shall possess all the rights, privileges, powers and franchises of a public as well as a private nature, and be subject to all the restrictions, disabilities and duties of Disappearing Entity, and all property, real, personal and mixed (whether tangible or intangible), and all debts due to Disappearing Entity on whatever account, as well as all other things in action or belonging to Disappearing Entity, shall be vested in Surviving Entity, and all property, rights, privileges, powers and franchises, and all and every other interest shall thereafter be the property of Surviving Entity as they were of Disappearing Entity, and the title to any real estate vested by deed or otherwise, in Disappearing Entity shall not revert or be in any way impaired; but all rights of creditors and all liens upon any property of Disappearing Entity shall be preserved and unimpaired, and all debts, liabilities and duties of Disappearing Entity shall thereafter attach to Surviving Entity, and may be enforced against it to the same extent as if such debts and liabilities had been incurred by it.

**1.3 Disappearing Entity Stockholder Interests Cancelled.** The manner and basis of converting the shares of each corporation into shares, obligations, or other securities of the surviving corporation or any other corporation or, in whole or in part, into cash or other property and the manner and basis of converting rights to acquire shares of each corporation into rights to acquire shares, obligations, or other securities of the surviving or any other corporation or, in whole or in part, into cash or other property are as follows:

At the Effective Time, holders of stock in Disappearing Entity outstanding immediately prior to the Effective Time shall cease to have any rights as stockholders of Disappearing Entity and shall have no rights as stockholders in Surviving Entity.

**1.4 Surviving Entity Name Change.** At the Effective Time, the name of the Surviving Entity shall be "CedarCreek Systems, Inc.".

## **ARTICLE 2 THE CLOSING**

**2.1 Closing.** The closing (the "*Closing*") shall take place at the offices of CedarCreek, Inc. at 515 N. Flagler Drive, Suite #408, West Palm Beach, FL 33401, at the Effective Time, or on such other date, time and/or place as may mutually be agreed upon by Surviving Entity and Disappearing Entity. The date of the Closing is referred to herein as the "*Closing Date*".

**ARTICLE 3**  
**REPRESENTATIONS AND WARRANTIES OF**  
**CEDARCREEK SYSTEMS, INC.**

**3.1 Corporate Existence.** Disappearing Entity is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of California.

**3.2 Corporate Power; Authorization; Enforceable Obligations.** Disappearing Entity has the corporate power, authority and legal right to execute, deliver and perform this Agreement. The execution, delivery and performance of this Agreement by Disappearing Entity has been duly authorized by its Board of Directors and no further corporate action on the part of Disappearing Entity is necessary to authorize this Agreement and the performance of the transactions contemplated hereby. This Agreement has been duly executed and delivered on behalf of Disappearing Entity by duly authorized persons, and this Agreement constitutes the legal, valid and binding obligations of Disappearing Entity, enforceable against it in accordance with its terms.

**3.3 Stockholders.** As of immediately prior to the Closing, each individual and entity listed on **EXHIBIT A** holds the membership interests set forth opposite each such individual and entity's name. All outstanding holders of stock in Disappearing Entity are reflected on **EXHIBIT A**.

**ARTICLE 4**  
**REPRESENTATIONS AND WARRANTIES OF**  
**CEDARCREEK, INC.**

**4.1** Surviving Entity is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of Florida.

**4.2 Corporate Power; Authorization; Enforceable Obligations.** Surviving Entity has the corporate power, authority and legal right to execute, deliver and perform this Agreement. The execution, delivery and performance of this Agreement by Surviving Entity has been duly authorized by its Board of Directors and no further corporate action on the part of Surviving Entity is necessary to authorize this Agreement and the performance of the transactions contemplated hereby. This Agreement has been duly executed and delivered on behalf of Surviving Entity by duly authorized persons, and this Agreement constitutes the legal, valid and binding obligations of Surviving Entity, enforceable against it in accordance with its terms.



**ARTICLE 5**  
**AMENDED AND RESTATED ARTICLES OF INCORPORATION**

**5.1 Amended and Restated Articles of Incorporation.** The Amended and Restated Articles of Incorporation attached hereto at **EXHIBIT A** ("*Amended Articles*") prepared in compliance with Chapter 607 of the Florida Business Corporation Act (the "*FBCA*") shall be executed and delivered to the Department of State, for filing, as provided in the FBCA, on or as soon as practicable after the Closing Date, defined below.

**ARTICLE 6**  
**MISCELLANEOUS PROVISIONS**

**6.1 Further Assurances.** Each party hereto shall execute and cause to be delivered to each other party hereto such instruments and other documents, and shall take such other actions, as such other party may reasonably request (prior to, at or after the Closing) for the purpose of carrying out or evidencing any of the transactions contemplated by this Agreement.

**6.2 Governing Law.** This Agreement shall be construed and interpreted in accordance with the laws of the State of Florida, without regard to its provisions concerning conflict of laws that would cause the laws of another jurisdiction to govern.

**6.3 Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be binding as of the date first written above, and all of which shall constitute one and the same instrument. Each such copy shall be deemed an original, and it shall not be necessary in making proof of this Agreement to produce or account for more than one such counterpart.

**6.4 Severability.** Any provision of this Agreement that is invalid or unenforceable in any jurisdiction shall be ineffective to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining provisions hereof, and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

**6.5 Successors and Assigns.** This Agreement shall be binding upon each of the parties hereto and each of their respective successors and assigns, if any. This Agreement shall inure to the benefit of Surviving Entity, the Companies and their respective successors and assigns, if any.


**6.6 Entire Agreement.** This Agreement sets forth the entire understanding of the parties hereto relating to the subject matter hereof and supersedes all prior agreements and understandings among or between any of the parties relating to the subject matter.

*[Signature Page to Follow]*

IN WITNESS WHEREOF, this Agreement and Plan of Merger has been executed by the parties hereto on the date first written above.


**SURVIVING ENTITY:**

**CEDARCREEK, INC.**, a Florida corporation

By:   
Name: Nicholas Wilhelm  
Title: Chairman

**DISAPPEARING ENTITY:**

**CEDARCREEK, SYSTEM, INC.**, a California corporation

By:   
Name: Nicholas Wilhelm  
Title: Chairman

# **EXHIBIT A**

<b>NAME</b>	<b>MEMBERSHIP INTEREST OF CEDARCREEK SYSTEMS, INC. IMMEDIATELY PRIOR TO EFFECTIVE TIME</b>	<b>SHARES OF COMMON STOCK OF SURVIVING ENTITY ISSUED PURSUANT TO THE MERGER</b>
NICHOLAS WILHELM	1,000,000	110,500
<b>TOTAL</b>	<b>1,000,000</b>	<b>110,500</b>

**EXHIBIT B**

**AMENDED AND RESTATED  
ARTICLES OF INCORPORATION**

**AMENDED AND RESTATED ARTICLES OF INCORPORATION OF  
CEDARCREEK, INC.**

CedarCreek, Inc., a Florida corporation, does hereby certify as follows:

1. The name of this corporation is CedarCreek Systems, Inc. and this corporation was originally incorporated under the Florida Business Corporation Act on August 8, 2019 under the name CedarCreek, Inc.


2. The Amended and Restated Articles of Incorporation of the corporation attached hereto as Exhibit A, which is incorporated herein by this reference, restates, integrates, and further amends the provisions of the Articles of Incorporation of this corporation as previously amended or supplemented.

3. The Board of Directors of this corporation has adopted the Amended and Restated Articles of Incorporation of this corporation in accordance with Sections 607.1006, 607.1007 and 607.0120 of the Florida Business Corporation Act.

4. Nicholas Wilhelm is the sole shareholder of the corporation and the Amended and Restated Articles of Incorporation have been approved by 100% of the shareholders of the corporation in accordance with Sections 607.1003 and 607.1007 of the Florida Business Corporation Act.

These Amended and Restated Articles of Incorporation have been executed by a duly authorized officer of this corporation on October 7, 2019.

CedarCreek, Inc.

By:   
Name: Nicholas Wilhelm  
Chairman, Secretary

**Exhibit A**

**AMENDED AND RESTATED ARTICLES OF INCORPORATION OF  
CEDARCREEK, INC.**

**ARTICLE I. NAME.**

The name of this corporation is CedarCreek Systems, Inc. (the "**Corporation**").

**ARTICLE II. REGISTERED OFFICE.**

The address of the registered office of the Corporation in the State of Florida is 510 N. Flagler Drive, Suite 408 in the City of West Palm Beach, County of Palm Beach. The name of its registered agent at such address is Business Filings Incorporated.

**ARTICLE III. PURPOSE.**

The purpose of the Corporation is to engage in any lawful act or activity for which a corporation may be organized under the Florida Business Corporation Act.

**ARTICLE IV. AUTHORIZED SHARES.**

**A Authorized Shares.** The Corporation is authorized to issue two classes of stock to be designated "**Common Stock**" and "**Preferred Stock**". The total number of shares of all classes of stock which the Corporation will have authority to issue is Twelve Million Five Hundred Thousand (12,500,000), consisting of: (1) Ten Million (10,000,000) shares of Common Stock, each share having no par value, and Two Million Five Hundred Thousand (2,500,000) shares of Preferred Stock, each share having no par value. As of the date of filing of these Amended and Restated Articles of Incorporation, 1,110,500, shares of Common Stock and no shares of Preferred Stock have been issued. The Preferred Stock may be issued from time to time in one or more series, each of such series to consist of such number of shares and to have such terms, rights, powers, preferences, qualifications, limitations as stated or expressed in this Amended and Restated Articles of Incorporation. The following is a statement of the designations and the rights, powers, privileges, qualifications, limitations, and restrictions in respect of each class of capital stock of the Corporation.

**B Common Stock.** The following rights, powers, privileges, restrictions, and other matters, will apply to the Common Stock, and as set forth in this Amended and Restated Articles of Incorporation.

**1. Voting.** On any matter presented to the Corporation's stockholders for their action or consideration at any meeting of stockholders of the Corporation or by written consent of stockholders in lieu of a meeting, each holder of outstanding shares of Common Stock will be entitled to the number of votes equal to the number of shares on the record date for determining stockholders entitled to vote on such matter. Subject to any required vote of the Preferred Stock, the number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares then outstanding) by 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.

**2. Dividends.** Subject to the prior rights of holders of any class of stock then outstanding, the holders of Common Stock will be entitled to receive, when and if declared by the board of directors, any dividends that the board of directors may declare out of assets legally available to be distributed.

3. **Liquidation Rights.** In any Deemed Liquidation (as defined below), the assets of the Corporation will be distributed as provided in Section C below.

4. **Redemption.** The Common Stock is not redeemable at the option of the holder, other than as permitted in Article VI of this Amended and Restated Articles of Incorporation.

C. **Preferred Stock.** 257,509 authorized shares of Preferred Stock of the Corporation are hereby designated "**Series Seed-1 Preferred Stock**". Such number of shares of Series Seed-1 Preferred Stock may be increased or decreased by resolution of the Board of Directors; provided that no decrease shall reduce the number of shares of Series Seed-1 Preferred Stock to a number less than the number of shares then outstanding plus the number of shares issuable upon exercise or conversion of outstanding rights, options or other securities issued by the Corporation. The following rights, powers, privileges, restrictions, and other matters, will apply to the Preferred Stock, including Series Seed-1 Preferred Stock.

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

(a) **Payments to Holders of Preferred Stock.** In the event of any voluntary or involuntary liquidation, dissolution, or winding up of the Corporation (each a "**Deemed Liquidation Event**"), before any payment will be made to the holders of Common Stock, the holders of shares of Preferred Stock then outstanding will be entitled to be paid out of the funds and assets available for distribution to its stockholders, an amount per share equal to the greater of (i) the Original Issue Price for such share of Preferred Stock, plus any declared but unpaid dividends, or (ii) such amount per share as would have been payable had all shares of Preferred Stock been converted into Common Stock under Section 3 immediately before such Deemed Liquidation Event. If on any such Deemed Liquidation Event, the funds and assets available for distribution to the stockholders of the Corporation will be insufficient to pay the holders of shares of Preferred Stock the full amount to which they are entitled under this Section, then the funds and assets available will be distributed among the holders of shares of Preferred Stock at the time outstanding, ratably in proportion to the full amounts to which they would otherwise be respectively entitled. "**Original Issue Price**" means \$1.55 per share for the Series Seed-1 Preferred Stock. The price for any future series of Preferred Stock will be determined at the time of issuance.

(b) **Payments to Holders of Common Stock.** In the event of any Deemed Liquidation Event, after the payment of all preferential amounts required to be paid to the holders of shares of Preferred Stock as provided above, the remaining funds and assets available for distribution to the Corporation's stockholders will be distributed ratably among the holders of shares of Common Stock.

(c) **Deemed Liquidation Events.**

(i) Each of the following events will be considered a "**Deemed Liquidation Event**" unless a majority of the outstanding Preferred Stock elect otherwise at least five days before the effective date of any such event:

(A) a merger or consolidation in which the Corporation or a subsidiary is a constituent party, except any merger or consolidation in which the outstanding shares of the Corporation's capital stock immediately before such merger or consolidation continue to represent, or are converted into or exchanged for equity securities that represent at least a majority or the voting power of the equity securities of the surviving corporation immediately after such merger or consolidation. For purposes of this section, all shares of Common Stock issuable on exercise of options outstanding immediately before such merger or consolidation or on conversion of Convertible Securities (as defined below) outstanding immediately before such merger or consolidation will be deemed to be outstanding immediately before such merger or consolidation and, if applicable, deemed to be converted or exchanged

in such merger or consolidation on the same terms as the actual outstanding shares of Common Stock are converted or exchanged; or

(B) the sale, lease, transfer, exclusive license, 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 the assets of the Corporation and its subsidiaries taken as a whole.

(ii) **Amount Deemed Paid or Distributed.** The funds and assets deemed paid or distributed to the holders of the Corporation's capital stock on any Deemed Liquidation Event will be the cash or the value of the property, rights, or securities paid or distributed to such holders by the Corporation or the acquiring person, firm, or other entity. The value of such property, rights, or securities will be determined in good faith by the board of directors.

## 2. Voting.

(a) **General.** On any matter presented to the Corporation's stockholders for their action or consideration at any meeting of stockholders of the Corporation or by written consent of stockholders in lieu of a meeting, each holder of outstanding shares of Preferred Stock will be entitled to the number of votes equal to the number of shares of Common Stock into which the shares of Preferred Stock are convertible as of the record date for determining stockholders entitled to vote on such matter. Fractional votes will not be permitted and any fractional voting rights available on an as-converted basis (after aggregating all shares into which shares of Preferred stock held by each holder could be converted) will be rounded to the nearest whole number (with one-half being rounded upward). Except as provided by law or by the other provisions of this Amended and Restated Articles of Incorporation, holders of Preferred Stock will vote together with the holders of Common Stock as a single class on an as-converted basis, will have full voting rights and powers equal to the voting rights and powers of the holders of Common Stock, and will be entitled, notwithstanding any provision of this Amended and Restated Articles of Incorporation, to notice of any stockholders' meeting in accordance with the Corporation's Bylaws.

(b) **Election of Directors.** The holders of record of the Corporation's capital stock, voting as a single class on an as-converted basis, will be entitled to elect all directors. 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 classes or series of capital stock entitled to elect such director, given either at a special meeting of such stockholders duly called for that purpose or under a written consent of stockholders. 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 classes or series entitled to elect such director will constitute a quorum for the purpose of electing such director.

(c) **Separate Vote of Preferred Stock.** The Corporation will 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 the Amended and Restated Articles of Incorporation) the written consent or affirmative vote of the majority of the outstanding Preferred Stock, given in writing or by vote at a meeting, voting separately as a single class:

(i) alter or change the rights, powers, or privileges of the Preferred Stock in the Amended and Restated Articles of Incorporation or Bylaws as then in effect in a way that disproportionately and adversely affects the Preferred Stock;

(ii) increase or decrease the authorized number of shares of Common Stock or Preferred Stock;



(iii) authorize or create (by reclassification or otherwise) any new class or series of capital stock having rights, powers, or privileges that are senior to any series of Preferred Stock in redemption, liquidation preference, voting, or dividend rights;

(iv) redeem or repurchase any shares of Common Stock or Preferred Stock, other than under employee or consultant agreements giving the Corporation the right to repurchase shares on the termination of services under the terms of the applicable agreement in accordance with Article VI of this Amended and Restated Articles of Incorporation;

(v) declare or pay any dividend, or otherwise make a distribution to holders of Preferred Stock or Common Stock;

(vi) create or hold capital stock in any subsidiary that is not wholly owned (either directly or through one or more other subsidiaries) by the Corporation;

(vii) create, incur, or guaranty, or pledge any assets in connection with any indebtedness, or issue, or authorize the issuance of any debt security, or permit any subsidiary to take any such action with respect to any indebtedness or debt security, if, in each case, the aggregate indebtedness of the Corporation and its subsidiaries for borrowed money following such action would exceed \$250,000;

(viii) enter into a transaction or materially amend any agreement with any director, affiliate, or member of the Corporation's senior management, except for employment and arms-length compensation agreements (including equity incentive grants), customary director indemnification agreements, or other arms-length transactions; or

(ix) effect any Deemed Liquidation Event.

For the absence of doubt, none of the foregoing paragraphs (i) through (ix) above will require the vote or written consent of the holders of a majority of the outstanding Preferred Stock for the purposes of any amendment of the Amended and Restated Articles of Incorporation for the purpose of any designation, whether by reclassification or otherwise, of any new class or series of stock or any other securities convertible into equity securities of the Corporation in a bona fide financing in which cash is received by the Corporation, ranking on parity with, junior to or senior to the Series Seed-1 Preferred Stock in right of redemption, liquidation preference, voting, or dividend rights.

3. **Conversion.** The holders of the Preferred Stock will have conversion rights as follows (the "**Conversion Rights**");

(a) **Conversion Ratio.** Each share of Preferred Stock will be convertible, at the option of the holder at any time and without the payment of additional consideration by the holder, into such number of fully paid and non-assessable shares of Common Stock determined by dividing the Original Issue Price for such series of Preferred Stock by the Conversion Price (as defined below) for such series of Preferred Stock in effect at the time of conversion. The "**Conversion Price**" for each series of Preferred Stock initially means the Original Issue Price for such series of Preferred Stock. Such initial Conversion Price is subject to adjustment as provided below.

(b) **Termination of Conversion Rights.** Other than subject to a Contingency Event (as defined below), in the event of a Deemed Liquidation Event, the Conversion Rights will terminate

at the close of business on the last full day preceding the date fixed for the first payment of any funds and assets distributable on such event to the holders of Preferred Stock.

(c) **Fractional Shares.** No fractional shares of Common Stock will be issued on conversion of the Preferred Stock. In lieu of any fractional shares to which the holder would otherwise be entitled, the Corporation will pay cash equal to such fraction multiplied by the fair market value of a share of Common Stock as determined in good faith by the board of directors. For purposes of this section, all shares of Preferred Stock held by such holder will be aggregated.

(d) **Mechanics of Optional Conversion.**

(i) **Notice of Conversion.** A holder of Preferred Stock may voluntarily convert shares of Preferred Stock into shares of Common Stock by surrendering the certificates for such shares of Preferred Stock at the office of the Corporation's transfer agent (or at the Corporation's principal office if the Corporation serves as its own transfer agent), together with written notice that such holder elects to convert all or any number of the shares of the Preferred Stock represented by such certificates and, if applicable, any event on which such conversion is contingent (a "**Contingency Event**"). Such notice will state such holder's names of the nominees in which such holder wishes the certificates for shares of Common Stock to be issued. If such registered holder alleges that any certificates has been lost, stolen, or destroyed, such stockholder will provide 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 certificates. If required by the Corporation, certificates surrendered for conversion will be endorsed or accompanied by a written instrument of transfer, in a form reasonably satisfactory to the Corporation, duly executed by the registered holder or such holder's 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 certificates (or lost certificate affidavit and agreement) and notice (or, if later, the date on which all Contingency Events have occurred) will be the time of conversion (the "**Conversion Time**"), and the shares of Common Stock issuable on conversion of the shares represented by such certificate will be deemed to be outstanding of record as of such time. As soon as practicable after the Conversion Time, the Corporation will (A) issue and deliver to such holder of Preferred Stock or to such holder's nominees, certificates for the number of full shares of Common Stock issuable on such conversion and certificates for the number (if any) of the shares of Preferred Stock represented by the surrendered certificates that were not converted into Common Stock, (B) pay in cash such amount as provided in the section above in lieu of any fractional shares of Common Stock otherwise issuable on such conversion, and (C) pay all declared but unpaid dividends on the shares of Preferred Stock converted.

(ii) **Reservation of Shares.** The Corporation will at all times while any share of Preferred Stock is outstanding, reserve and keep available out of its authorized but unissued capital stock such number of its duly authorized shares of Common Stock as will from time to time be sufficient to effect the conversion of all outstanding Preferred Stock. If at any time the number of authorized but unissued shares of Common Stock will not be sufficient to effect the conversion of all then-outstanding shares of the Preferred Stock, the Corporation will use its best efforts to cause such corporate action to be taken as may be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as will be sufficient for such purposes, including engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to this Amended and Restated Articles of Incorporation. Before taking any action that would cause an adjustment reducing the Conversion Price of a series of Preferred Stock below the then par value of the shares of Common Stock issuable on conversion of such series of Preferred Stock, the Corporation will take any corporate action that may, in the opinion of its counsel, be necessary so that the Corporation may validly and legally issue fully paid and non-assessable shares of Common Stock at such adjusted Conversion Price.

(iii) **Effect of Conversion.** All shares of Preferred Stock that have been surrendered for conversion will no longer be deemed to be outstanding and all rights with respect to such shares will immediately cease and terminate at the Conversion Time, except only the right of the holders to receive shares of Common Stock in exchange for Preferred Stock, to receive payment in lieu of any fraction of a share otherwise issuable on such conversion as provided above, and to receive payment of any dividends declared but unpaid. Any shares of Preferred Stock so converted will be retired and cancelled and may not be reissued.

(iv) **No Further Adjustment.** On any conversion of shares of Preferred Stock, no adjustment to the Conversion Price of the applicable series of Preferred Stock will be made with respect to the converted shares for any declared but unpaid dividends on such series of Preferred Stock or on the Common Stock delivered on conversion.

(e) **Adjustment for Stock Splits and Combinations.** If the Corporation will at any time after the date on which the first share of a series of Preferred Stock is issued by the Corporation (such date referred to in this Amended and Restated Articles of Incorporation as the "**Original Issue Date**" for such series of Preferred Stock) effect a subdivision of the outstanding Common Stock, the Conversion Price for such series of Preferred Stock in effect immediately before that subdivision will be proportionately decreased so that the number of shares of Common Stock issuable on conversion of each share of such series will be increased in proportion to such increase in the aggregate number of shares of Common Stock outstanding. If the Corporation will at any time after the Original Issue Date for a series of Preferred Stock combine the outstanding shares of Common Stock, the Conversion Price for such series of Preferred Stock in effect immediately before the combination will be proportionately increased so that the number of shares of Common Stock issuable on conversion of each share of such series will be decreased in proportion to such decrease in the aggregate number of shares of Common Stock outstanding. Any adjustment under this section will become effective at the close of business on the date the subdivision or combination becomes effective.

(f) **Adjustment for Certain Dividends and Distributions.** In the event the Corporation at any time or from time to time after the Original Issue Date for a series of Preferred Stock will 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 for such series of Preferred Stock in effect immediately before such event will be decreased as of the time of such issuance or, in the event such a record date will have been fixed, as of the close of business on such record date, by multiplying such Conversion Price then in effect by a fraction:

(i) the numerator of which will be the total number of shares of Common Stock issued and outstanding immediately before the time of such issuance or the close of business on such record date; and

(ii) the denominator of which will be the total number of shares of Common Stock issued and outstanding immediately before 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.

(iii) Notwithstanding the foregoing, (A) if such record date will have been fixed and such dividend is not fully paid or if such distribution is not fully made on the date fixed, such Conversion Price will be recomputed accordingly as of the close of business on such record date and thereafter such Conversion Price will be adjusted under this section as of the time of actual payment of such

dividends or distributions, and (B) no such adjustment will be made if the holders of such series 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 Common Stock that they would have received if all outstanding shares of such series of Preferred Stock had been converted into Common Stock on the date of such event.

**(g) Adjustments for Other Dividends and Distributions.** In the event the Corporation at any time or from time to time after the Original Issue Date for a series of Preferred Stock will 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), then and in each such event the holders of such series of Preferred Stock will receive, simultaneously with the distribution to the holders of Common Stock, a dividend or other distribution of such securities in an amount equal to the amount of such securities as they would have received if all outstanding shares of such series of Preferred Stock had been converted into Common Stock on the date of such event.

**(h) Adjustment for Reclassification, Exchange, and Substitution.** If at any time after the Original Issue Date for a series of Preferred Stock, the Common Stock issuable on the conversion of such series of Preferred 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 (other than by a stock split or combination, dividend, distribution, merger, or consolidation covered above), then in any such event each holder of such series of Preferred Stock will have the right thereafter to convert such stock into the kind and amount of stock and other securities and property receivable on such recapitalization, reclassification, or other change by holders of the number of shares of Common Stock into which such shares of Preferred Stock could have been converted immediately before such recapitalization, reclassification, or change.

**(i) Adjustment for Merger or Consolidation.** Subject to the provisions of Section 1(c), if there will occur any consolidation or merger involving the Corporation in which the Common Stock (but not a series of Preferred Stock) is converted into or exchanged for securities, cash, or other property (other than a transaction covered by the sections above), then, following any such consolidation or merger, a provision will be made that each share of such series of Preferred Stock will thereafter be convertible, in lieu of the Common Stock into which it was convertible before such event, into the kind and amount of securities, cash or other property which a holder of the number of shares of Common Stock of the Corporation issuable on conversion of one share of such series of Preferred Stock immediately before such consolidation or merger would have been entitled to receive under such transaction. In such case, appropriate adjustment (as determined in good faith by the board of directors) will be made in the application of the provisions in this Section 3 with respect to the rights and interests thereafter of the holders of such series of Preferred Stock, to the end that the provisions set forth in this Section 3 (including provisions with respect to changes in and other adjustments of the Conversion Price of such series of Preferred Stock) will thereafter be applicable, as nearly as reasonably may be, in relation to any securities or other property thereafter deliverable on the conversion of such series of Preferred Stock.

**(j) Sales below Conversion Price.**

**(i)** If at any time on or after the Original Issue Date, the Corporation sells or issues Additional Shares of Common Stock (as defined below), without consideration or for a consideration per share less than the Conversion Price in effect for such series of Preferred Stock immediately prior to such issue, then the applicable Conversion Price will be reduced, concurrently with such issue, to a price (calculated to the nearest one-hundredth of a cent) determined in accordance with the following formula:

$$CP2 = CP1 * [(A + B) / (A + C)]$$

(ii) For purposes of this section:

(A) "A" means the number of shares of Common Stock outstanding immediately prior to such issue of Additional Shares of Common Stock (treating for this purpose as outstanding all shares of Common Stock issuable on exercise of Options outstanding immediately prior to such issue or on conversion or exchange of Convertible Securities (including the any Preferred Stock) outstanding (assuming exercise of any outstanding Options) immediately prior to such issue);

(B) "B" means the number of shares of Common Stock that would have been issued if such Additional Shares of Common Stock had been issued at a price per share equal to CP1 (determined by dividing the aggregate consideration received by the Corporation in respect of such issue by CP1);

(C) "C" means the number of such Additional Shares of Common Stock issued in such transaction;

(D) "CP1" means the applicable Conversion Price in effect immediately prior to such issue of Additional Shares of Common Stock;

(E) "CP2" means the applicable Conversion Price in effect immediately after such issue of Additional Shares of Common Stock;

(F) "Option" means rights, options, or warrants to subscribe for, purchase, or otherwise acquire Common Stock or Convertible Securities; and

(G) "Convertible Securities" means any shares or other securities directly or indirectly convertible into or exchangeable for Common Stock, but excluding Options.

(iii) For purposes of determining the aggregate consideration received by the Corporation for the issuance of securities above in B, (A) to the extent that it consists of cash, the gross amount of cash received by the Corporation before deducting any underwriting or similar commissions, without the deduction of expenses payable by the Corporation, (B) to the extent that it consists of property other than cash, the fair market value of such property as determined in good faith by the board of directors, and (C) to the extent that it consists of the Corporation's assets or securities, the fair market value as determined in good faith by the board of directors.

(iv) For the adjustment required by this section, if the Corporation issues or sells (A) Preferred Stock or other Convertible Securities exercisable or convertible into Additional Shares of Common Stock, or (B) rights or options for the purchase of Additional Shares of Common Stock, and if the effective price of such Additional Shares of Common Stock or Convertible Securities is less than the applicable Conversion Price, in each case, the Corporation will have deemed to have issued the maximum number of Additional Shares of Common Stock issuable on exercise or conversion.

(v) If the terms of any Option or Convertible Security, which would cause an adjustment to the applicable Conversion Price pursuant to this section, 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 (A) any increase or decrease in the

number of shares of Common Stock issuable on the exercise, conversion, or exchange of any such Option or Convertible Security, or (B) any increase or decrease in the consideration payable to the Corporation on such exercise, conversion, or exchange, then, effective on such increase or decrease becoming effective, the applicable Conversion Price computed on the original issue or record date of such Option or Convertible Security will be readjusted to such applicable Conversion Price as would have obtained had such revised terms been in effect on the original date of issuance of such Option or Convertible Security. No readjustment pursuant to this section will have the effect of increasing the applicable Conversion Price to an amount which exceeds the lower of: (1) the applicable Conversion Price in effect immediately prior to the original adjustment made as a result of the issuance of such Option or Convertible Security, or (2) the applicable 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.

(vi) If the number of shares of Common Stock issuable on the exercise, conversion, or exchange of any Option or Convertible Security, or the consideration payable to the Corporation on such exercise, conversion, or exchange, is calculable at the time such Option or Convertible Security is issued or amended but is subject to adjustment based on subsequent events, any adjustment to the applicable Conversion Price provided for in this section will 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. If the number of shares of Common Stock issuable on the exercise, conversion, or exchange of any Option or Convertible Security, or the consideration payable to the Corporation on such exercise, conversion, or exchange, cannot be calculated at all at the time such Option or Convertible Security is issued or amended, any adjustment to the applicable Conversion Price that would result under the terms of this section at the time of such issuance or amendment will instead be effected at the time such number of shares or amount of consideration is first calculable (even if subject to subsequent adjustments), assuming for purposes of calculating such adjustment to the applicable Conversion Price that such issuance or amendment took place at the time such calculation can first be made.

(vii) On the expiration or termination of any unexercised Option or unconverted or un-exchanged Convertible Security (or portion) which resulted (either on its original issuance or on a revision of its terms) in an adjustment to the applicable Conversion Price, the applicable Conversion Price will be readjusted to such applicable Conversion Price as would have obtained had such Option or Convertible Security (or portion) never been issued. No further adjustment of the applicable Conversion Price, as adjusted on the issuance of such Convertible Securities, will be made as a result of the actual issuance of Additional Shares of Common Stock.

(viii) For purposes of this section, “**Additional Shares of Common Stock**” means all shares of Common Stock issued or deemed to be issued by the Corporation (including shares of Common Stock subsequently reacquired or retired by the Corporation) other than:

(A) shares of Common Stock issued on conversion of the Preferred Stock;

(B) shares of Common Stock or Convertible Securities issued after the Original Issue Date to employees, officers, or directors of the Corporation, or advisors or consultants to the Corporation pursuant to stock purchase or stock option plans approved by the Corporation’s board of directors;

(C) shares of Common Stock issued on the exercise or conversion of Options or Convertible Securities outstanding as of the Original Issue Date;

offering; (D) shares of Common Stock in an underwritten public

(E) shares of Common Stock or Convertible Securities issued pursuant to a debt financing from a bank or similar financial or lending institution approved by the Corporation's board of directors;

(F) shares of Common Stock or Convertible Securities issued for consideration other than cash pursuant to a merger, acquisition, or similar business combination approved by the Corporation's board of directors;

(G) shares of Common Stock in connection with any stock split, dividend, or recapitalization of the Corporation; and

(H) shares of Common Stock or Convertible Securities that are approved by the Corporation's board of directors.

(k) **Certificate for Adjustments.** On the occurrence of each adjustment or readjustment of the Conversion Price of a series of Preferred Stock under this Section 3, the Corporation at its expense will, as promptly as reasonably practicable, compute such adjustment or readjustment in accordance with the terms of this Amended and Restated Articles of Incorporation and furnish to each holder of such series of Preferred Stock a certificate setting forth such adjustment or readjustment (including the kind and amount of securities, cash or other property into which such series of Preferred Stock is convertible) and showing in detail the facts on which such adjustment or readjustment is based. The Corporation will, as promptly as reasonably practicable after the written request at any time of any holder of any series of Preferred Stock (but in any event not later than 10 days thereafter), furnish or cause to be furnished to such holder a certificate listing (i) the Conversion Price of such series of Preferred Stock then in effect, and (ii) the number of shares of Common Stock and the amount, if any, of other securities, cash or property which then would be received on the conversion of such series of Preferred Stock.

#### **(l) Mandatory Conversion.**

(i) On either (A) the closing of the sale of shares of Common Stock to the public in a firm-commitment underwritten public offering under an effective registration statement under the Securities Act of 1933, as amended, or (B) the date and time, or the occurrence of an event, specified by vote or written consent of the majority of the outstanding shares of Preferred Stock, at the time of such vote or consent, voting as a single class on an as-converted basis (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 as the "**Mandatory Conversion Time**"), then (1) all outstanding shares of Preferred Stock will automatically be converted into shares of Common Stock at the applicable Conversion Ratio, and (2) such shares may not be reissued by the Corporation.

(ii) All holders of record of shares of Preferred Stock will be sent written notice of the Mandatory Conversion Time and the place designated for mandatory conversion of all such shares of Preferred Stock. Unless otherwise provided in this Amended and Restated Articles of Incorporation, such notice need not be sent in advance of the occurrence of the Mandatory Conversion Time. On receipt of such notice, each holder of shares of Preferred Stock will surrender such holder's certificates for all such shares to the Corporation at the place designated in such notice, and will thereafter receive certificates for the number of shares of Common Stock to which such holder is entitled. If so required by the Corporation, certificates surrendered for conversion will be endorsed or accompanied by written instruments of transfer, in a form reasonably satisfactory to the Corporation, duly executed by the

registered holder or such holder's attorney duly authorized in writing. If such registered holder alleges that any certificates has been lost, stolen, or destroyed, such holder will provide 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. All rights with respect to the Preferred Stock converted, including the rights, if any, to receive notices and vote (other than as a holder of Common Stock), will terminate at the Mandatory Conversion Time, except only the rights of the holders to receive new stock certificates.

(iii) As soon as practicable after the Mandatory Conversion Time and the surrender of the certificates (or lost certificate affidavit and agreement) for Preferred Stock, the Corporation will issue and deliver to such holder, or to such holder's nominee, certificates for the number of full shares of Common Stock issuable on such conversion in accordance with the provisions of this section, together with cash in lieu of any fraction of a share of Common Stock otherwise issuable on such conversion, and the payment of any declared but unpaid dividends on the shares of Preferred Stock converted. Such converted Preferred Stock will be retired and cancelled and may not be reissued as shares of such series, and the Corporation may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of Preferred Stock (and the applicable series) accordingly.

#### **4. Dividends.**

(a) Holders of Preferred Stock, in preference to holders of Common Stock, will be entitled to receive from any funds that are legally available, cash dividends at the rate of 8% of the Original Issue Price per annum. Such dividends are payable only when and if declared by the Corporation's board of directors and will be cumulative. In the event the Corporation shall have declared but unpaid dividends outstanding immediately prior to, and in the event of, a conversion of Preferred Stock (as provided in Section 3 hereof), the Corporation shall, at the option of the Corporation, pay in cash to the holder(s) of Preferred Stock subject to the conversion the full amount of any such dividends or allows such dividends to be converted into Common Stock in accordance with, and pursuant to the terms specified in, Section 3 hereof.

(b) So long as any shares of Preferred Stock are outstanding, the Corporation will not declare any dividend or make any distribution on the Common Stock until all dividends in Section 4(a) on the Preferred Stock have been paid or declared, except for such matters listed in Article VI.

(c) In the event that dividends are paid on any share of Common Stock, the Corporation will pay an additional dividend on all outstanding shares of Preferred Stock in a per share amount on an as converted to Common Stock basis equal to the amount paid or set aside for each share of Common Stock.

**5. Redemption.** The Preferred Stock is not redeemable at the option of the holder.

**6. Reissuance of Acquired Shares.** Any shares of Preferred Stock that are redeemed or otherwise acquired by the Corporation or any of its subsidiaries will be automatically and immediately cancelled and retired, and will 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.** Any of the rights, powers, privileges, and other terms of the Preferred Stock set forth in this Amended and Restated Articles of Incorporation may be waived prospectively or retrospectively on behalf of all holders of Preferred Stock by the affirmative written consent or vote of the holders of a majority of outstanding Preferred Stock.



8. **Notice of Record Date.** In the event that the Corporation takes a record of the holders of its Common Stock (or other capital stock or securities at the time issuable on conversion of the Preferred Stock) for the purpose of (a) 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, (b) any capital reorganization of the Corporation or any reclassification of the Common Stock of the Corporation, or (c) any Deemed Liquidation Event, 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 Common Stock (or such other capital stock or securities at the time issuable on the conversion of the Preferred Stock) will be entitled to exchange their shares of Common Stock (or such other capital stock or securities) for securities or other property deliverable on 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 Common Stock. Such notice will be sent at least 20 days before the earlier of the record date or effective date for the event specified in such notice.

9. **Notices.** Except as otherwise provided in this Amended and Restated Articles of Incorporation, any notice required or permitted by the provisions of this Article IV to be given to a holder of shares of Preferred Stock will be mailed, postage prepaid, to the post office address last shown on the records of the Corporation, or given by electronic communication in compliance with the provisions of the Florida Business Corporation Act Section 607.0141, and will be deemed sent on such mailing or electronic transmission.

#### **ARTICLE V. PREEMPTIVE RIGHTS.**

No stockholder of the Corporation will have a right to purchase shares of capital stock of the Corporation sold or issued by the Corporation except to the extent that such a right may from time to time be set forth in a written agreement between the Corporation and any stockholder.

#### **ARTICLE VI. STOCK REPURCHASES.**

A distribution can be made without regard to any preferential dividends arrears amount or any preferential rights amount in connection with (A) repurchases of Common Stock issued to or held by the Corporation's employees, officers, directors, or consultants on termination of their employment or services pursuant to agreements providing for the right of repurchase, (B) repurchases of Common Stock issued to or held by the Corporation's employees, officers, directors, or consultants pursuant to the Corporation's rights of first refusal, or (C) any other repurchase or redemption of Common Stock or Preferred Stock approved by the holders of a majority of the Corporation's outstanding Preferred Stock.

#### **ARTICLE VII. BYLAW PROVISIONS.**

**A. Amendment of Bylaws.** Subject to any additional vote required by the Amended and Restated Articles of Incorporation or 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 of the Corporation. The stockholders are also expressly authorized to make, repeal, alter, amend, and rescind any or all of the Bylaws of the Corporation by majority vote, subject to any required vote or consent in this Amended and Restated Articles of Incorporation.

**B. Number of Directors.** Subject to any additional vote required by this Amended and Restated Articles of Incorporation, the number of directors of the Corporation will be determined in the manner set forth in the Bylaws of the Corporation.

**C. Ballot.** Elections of directors need not be by written ballot unless the Bylaws of the Corporation will so provide.

**D. Meetings and Books.** Meetings of stockholders may be held within or without the State of Florida as the Bylaws of the Corporation 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 of the Corporation.

#### **ARTICLE VIII. DIRECTOR LIABILITY.**

**A. Limitation.** To the fullest extent permitted by law, a director of the Corporation will not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. If the Florida Business Corporation Act or any other law of the State of Florida is amended after approval by the stockholders of this Article VIII to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation will be eliminated or limited to the fullest extent permitted by the Florida Business Corporation Act as so amended. Any repeal or modification of the foregoing provisions of this Article VIII by the stockholders of the Corporation will 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 before, such repeal or modification.

**B. Indemnification.** 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 Florida Business Corporation Act permits the Corporation to provide indemnification) through Bylaw provisions, agreements with such agents or other persons, vote of stockholders or disinterested directors or otherwise, in excess of the indemnification and advancement otherwise permitted by Section 607.0831 of the Florida Business Corporation Act.

**C. Modification.** Any amendment, repeal, or modification of the foregoing provisions of this Article VIII will not 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.

#### **ARTICLE IX. CORPORATE OPPORTUNITIES.**

The Corporation renounces any interest or expectancy of the Corporation in, or in being offered an opportunity to participate in, or in being informed about, an **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, (A) any director of the Corporation who is not an employee of the Corporation or any of its subsidiaries, or (B) any holder of Preferred Stock or any affiliate, partner, member, director, stockholder, employee, agent or other related person of any such holder, other than someone who is an employee of the Corporation or any of its subsidiaries (collectively, **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.