

P94000028236

RAUL A. PUIG, P.A.
9200 South Dadeland Boulevard
Suite 710
Miami, Florida 33156

Telephone: (305) 670-9859
Telefax: (305) 670-9862

August 1, 2000

Department of State
Division of Corporations
409 East Gaines Street
Tallahassee Florida
32399

VIA OVERNIGHT COURIER

SUBJECT: GLOBAL CARD SERVICES, INC.

000002344080--1
-08/02/00--01063--022
*****35.00 *****35.00

Enclosed is an original and one copy of the Articles of Amendment to the Restated and Amended Articles of Incorporation of GLOBAL CARD SERVICES, INC. and a check for \$35.00 covering the filing fees for the same.

Please expedite the filing of the Articles of Amendment and return the stamped copy of the same as well as the certified copy of the Restated and Amended Articles in the enclosed self-addressed envelope to my office: 7

RAUL A PUIG, ESQ.
9200 SOUTH DADELAND BOULEVARD
SUITE 710
MIAMI, FLORIDA 33156
TEL. (305) 670-9859

Sincerely,


Raul A. Puig, Esq.

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

00 AUG -2 PM 4: 23

FILED

ac
8/7
amend

**ARTICLES OF AMENDMENT TO RESTATED AND AMENDED ARTICLES OF
INCORPORATION
OF
GLOBAL CARD SERVICES, INC.**

Pursuant to Section 607.1006 of the Florida Statutes, the undersigned corporation hereby adopts the following Articles of Amendment to its Restated and Amended Articles of Incorporation:

1. The name of the corporation is:

GLOBAL CARD SERVICES, INC.
2. The Restated and Amended Articles of Incorporation are hereby amended by deleting Article IV in its entirety and substituting therefor the following:

“ARTICLE IV

Authorized Capital

(a). The Corporation is authorized to issue Thirty Two Million Five Hundred Thousand (32,500,000) shares of Common Stock, with no par value; and

(b). The Corporation is authorized to issue Ten Million (10,000,000) shares of Series A Convertible Preferred Stock with a par value of \$.0001 per share. The terms and provisions of the Series A Convertible Preferred Stock (the “Series A Preferred Stock”) are as follows:

1. Definitions. For purposes of this Article IV, Section (b), the following definitions shall apply:

(a) “Affiliates” shall mean any parent, spouse, sibling or lineal descendant or entity formed for the benefit of any parent, spouse, sibling or lineal descendant of a Holder of Series A Preferred Stock or holder of Common Stock.

(b) “Conversion” shall mean the event when conversion rights are exercised pursuant to 4(a-f).

(c) “Convertible Securities” shall mean any bonds, debentures, notes or other evidences of indebtedness, and any warrants, shares or any other securities (other than shares of Series A Preferred Stock) convertible into, exercisable for, or exchangeable for Common Stock.

(d) “Distribution” shall have the meaning set forth in 2(c) of this Article and Section.

FILED
00 AUG -2 PM 4:23
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

(e) "Fair Market Value" shall mean the price that the Series A Preferred Stock would bring in a transaction bargained between well informed buyers and sellers on the date in question without considering discounts for lack of marketability, illiquidity, or premiums for control of the Corporation.

(f) "Holder" shall mean each shareholder of record for each share of Series A Preferred Stock.

(g) "Liquidation" shall mean any voluntary, involuntary or statutory dissolution, winding up or liquidation of substantially all of the assets of the Corporation.

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

(i) "Original Issue Date" shall mean the date upon which shares of Series A Preferred Stock are first issued.

(j) "Original Issue Price" shall mean \$0.425506566 for each share of Series A Preferred Stock, subject to equitable and proportional adjustment in the event of stock splits, reverse splits, recapitalization and the like.

(k) "Preferred Stock" shall mean all outstanding series of Preferred Stock, from time to time.

(l) "QIPO" shall mean a redemption of substantially all of the Corporation's capital stock, a Liquidation of the Corporation or an underwritten public offering of the Corporation's stock where the pre-money market capitalization exceeds \$100 million and the Corporation receives gross proceeds in excess of \$20 million.

2. Dividends.

(a) Treatment of Series A Preferred Stock. The shares of Series A Preferred Stock shall annually receive a 6% cumulative dividend payable in cash in arrears upon the Original Issue Price of each share and any unpaid but owed cumulative dividends on each share when and if declared by the Board of Directors but in any event upon a QIPO. To the extent that the Corporation declares or pays dividends on the Common Stock, the Corporation shall declare and pay a participating dividend on each share of Series A Preferred Stock on an as-converted basis; and no dividend shall be paid on the Common Stock until all dividends owed on the Series A Preferred Stock are paid through the dividend date and no dividend on Common Stock shall be paid at a rate greater than the rate at which dividends are paid on the Series A Preferred Stock. The number of shares of Common Stock into which shares of Series A Preferred Stock are convertible shall be determined as of the date on which the dividend is declared. For such purpose, all shares of Series A Preferred Stock held by each Holder of Series A Preferred Stock shall be aggregated, and any resulting fractional share of Common Stock shall be disregarded.

(b) Priority of Dividends. The Corporation shall not make a Distribution (as defined below) to the holders of shares of Common Stock except in accordance with Section 2(a) above, and no Distributions shall be paid on any Common Stock of the Corporation during any fiscal year of the Corporation until dividends in the amount set forth in Section 2(a) above have been paid to the holders of Series A Preferred Stock during that fiscal year.

(c) Distribution. As used in this section, "Distribution" means the transfer of cash or property without consideration, whether by way of dividend or otherwise (except a dividend in shares of the Corporation) or the purchase of shares of the Corporation (other than in connection with the repurchase of shares of Common Stock issued to or held by employees, consultants, officers and directors upon termination of their employment or services pursuant to agreements providing for the right of said repurchase) for cash or property.

3. Liquidation Rights.

(a) Series A Liquidation Preference. In the event of any Liquidation, dissolution or winding up of the Corporation ("Liquidation"), either voluntary or involuntary, the holders of the Series A Preferred Stock shall be entitled to receive, out of the assets of the Corporation, the Original Issue Price plus an amount equal to all declared and unpaid dividends thereon (the "Series A Liquidation Preference"), if any, to the date that payment is made, before any payment shall be made or any assets distributed to the holders of Common Stock.

(b) If upon the liquidation, dissolution or winding up of the Corporation, the assets to be distributed among the Holders of the Series A Preferred Stock are insufficient to permit the payment to the Holders of the full Series A Liquidation Preference for their shares, then the entire assets of the Corporation legally available for distribution shall be distributed with equal priority and pro rata among the Holders of the Series A Preferred Stock in proportion to the aggregate Series A Liquidation Preference each such Holder is otherwise entitled to receive.

(c) Remaining Assets. After the payment to the Holders of Series A Preferred Stock of the full preferential amounts specified above, the remaining assets of the Corporation shall be distributed with equal priority and pro rata among the Holders of the Corporation's Series A Preferred Stock (on the basis of the number of shares of Common Stock into which shares of Series A Preferred Stock are convertible as determined as of the date on which the remaining assets of the Corporation are to be distributed to the holders of the Common Stock) and the Corporation's Common Stock.

(d) Non-Cash Consideration. If any assets of the Corporation distributed to stockholders in connection with any Liquidation, dissolution, or winding up of the Corporation are other than cash, then the value of such assets shall be their fair market value as determined by the Board of Directors.

4. Conversion. The Series A Preferred Stock shall have conversion rights as follows (the "Conversion Rights"):

(a) Right to Convert. Each share of Series A Preferred Stock shall be convertible, at the option of the Holder thereof, at any time after the date of issuance of such share at the office of the Corporation or the transfer agent for the Series A Preferred Stock. Each share of Series A Preferred Stock shall be convertible to one (1) share of Common, and shall be subject to adjustment as provided herein. The number of shares of Common Stock into which each share of Series A Preferred Stock may be converted is hereinafter referred to as the "Conversion Rate."

(b) Automatic Conversion. Each share of Series A Preferred Stock shall automatically be converted into shares of Common Stock at the then effective Conversion Rate for such share immediately upon the closing of a firmly underwritten public offering pursuant to the Securities Act of 1933, as amended (the "Securities Act") on Form S-1 (as defined in the Securities Act) or the like, in which the Corporation has a pre-money market capitalization of \$100 million and the aggregate gross proceeds to the Corporation are not less than \$20,000,000 and after which the Corporation's Common Stock is listed on a national securities exchange or admitted for quotation on the Nasdaq National Market (or any successor exchange or automatic quotation system).

(c) Mechanics of Conversion. Prior to Conversion, all dividends owed on the Series A Preferred Stock shall be paid through the Conversion Date. No fractional shares of Common Stock shall be issued upon conversion of the Series A 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 then fair market value of such fractional shares as determined in good faith by the Board of Directors of the Corporation. For such purpose, all shares of Series A Preferred Stock held by each Holder shall be aggregated, and any resulting fractional share of Common Stock shall be paid in cash. Before any Holder of Series A Preferred Stock shall be entitled to convert the same into full shares of Common Stock and to receive certificates therefor, the Holder shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Corporation or of the transfer agent for the Series A Preferred Stock, and shall give written notice to the Corporation at such office that the Holder elects to convert the same; provided, however, that in the event of an automatic conversion pursuant to paragraph 4(b) above, the outstanding shares of Series A Preferred Stock shall be converted automatically without any further action by the Holder of such shares and whether or not the certificates representing such shares are surrendered to the Corporation or its transfer agent; provided further, however, that the Corporation shall not be obligated to issue certificates evidencing the shares of Common Stock issuable upon such automatic conversion unless either the certificates evidencing such shares of Series A Preferred Stock are delivered to the Corporation or its transfer agent as provided above, or the Holder notifies the Corporation or its transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the Corporation to indemnify the Corporation from any loss incurred by it in connection with such certificates.

The Corporation shall, as soon as practicable after such delivery, or after such agreement and indemnification, issue and deliver at such office to such Holder of Series A Preferred Stock, a certificate or certificates for the number of shares of Common Stock to which the Holder shall be entitled as aforesaid and a check payable to the Holder in the amount of any cash amounts payable as the result of a conversion into fractional shares of Common Stock, plus any declared and unpaid dividends on the converted Series A Preferred Stock; provided, however, that no declared and unpaid dividends shall be paid on Series A Preferred Stock converted at the request of the Holder pursuant to Section 4(a) herein. 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 Series A Preferred Stock to be converted, and the person or persons entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock on such date; provided, however, that if the conversion is in connection with an underwritten offer of securities registered pursuant to the Securities Act, the conversion may, at the option of any Holder tendering Series A Preferred Stock for conversion, be conditioned upon the closing of the sale of securities pursuant to such offering, in which event the person(s) entitled to receive the Common Stock issuable upon such conversion of the Series A Preferred Stock shall not be deemed to have converted such Series A Preferred Stock until immediately prior to the closing of the sale of such securities.

(d) Adjustments to Conversion Rates.

(i) Stock Dividends. In the event the Corporation at any time or from time to time after the Original Issue Date shall declare or pay any dividend on the Common Stock payable in Common Stock, and with respect to which no similar Common Stock dividend is to be distributed to Holders of Series A Preferred Stock, then and in any such event, the Conversion Rates in effect immediately prior to such event shall, concurrently with the effectiveness of such event, be proportionately adjusted.

(ii) Adjustments for Subdivisions or Combinations of Common. In the event the outstanding shares of Common Stock shall be subdivided (by stock split or otherwise other than by payment of a dividend in Common Stock), into a greater number of shares of Common Stock, the Conversion Rates in effect immediately prior to such subdivision shall, concurrently with the effectiveness of such subdivision, be proportionately adjusted. In the event the outstanding shares of Common Stock shall be combined into a lesser number of shares of Common Stock, the Conversion Rates in effect immediately prior to such combination shall, concurrently with the effectiveness of such combination, be proportionately adjusted.

(iii) Adjustments for Reclassification, Exchange and Substitution. If the Common Stock issuable upon conversion of the Series A Preferred Stock shall be changed into the same or a different number of shares of any other class or classes of stock, whether by capital reorganization, reclassification or otherwise (other than a subdivision or combination of shares provided for above), the Conversion Rates then in effect shall, concurrently with the effectiveness of such reorganization or

reclassification, be proportionately adjusted such that the Series A Preferred Stock shall be convertible into, in lieu of the number of shares of Common Stock which the holders would otherwise have been entitled to receive, a number of shares of such other class or classes of stock which a Holder of the number of shares of Common Stock deliverable upon conversion of the Series A Preferred Stock immediately before that change would have been entitled to receive in such reorganization or reclassification.

(e) Certificate of Adjustments. Upon the occurrence of each adjustment or readjustment of any Conversion Rate pursuant to this Section 4, the Corporation at its expense, shall promptly compute such adjustment or readjustment in accordance with the terms hereof and furnish to each Holder of Series A Preferred Stock a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, upon the written request at any time of any Holder of Series A Preferred Stock, furnish or cause to be furnished to such holder a like certificate setting forth (i) such adjustments and readjustments, (ii) the Conversion Rates at the time in effect, and (iii) the number of shares of Common Stock and the amount, if any, of other property which at the time would be received upon the conversion of Series A Preferred Stock.

(f) Reservation of Stock Issuable Upon Conversion. The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of the shares of the Series A Preferred Stock, such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all then outstanding shares of the Series A Preferred Stock; and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Series A Preferred Stock, the Corporation will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purpose.

5. Redemption. The Series A Preferred Stock is redeemable at the request of any Holder of the Series A Preferred Stock on or after October 13, 2005. A Holder of Series A Preferred Stock may at any time after October 13, 2005 require the Corporation to buy all or part of the Holder's Series A Preferred Stock by delivering notice ("Notice") of the Holder's intent to exercise this right along with executed stock certificates representing the shares of Series A Preferred Stock to be sold to the Corporation. The Corporation shall pay the "Purchase Price" in cash for the shares of Series A Preferred Stock being sold within six months of receipt of Notice. The Purchase Price for each share shall be the higher of Fair Market Value, book value as calculated in accordance with Generally Accepted Accounting Practices, or the Original Issue Price for each share of Series A Preferred Stock being sold. Fair Market Value and Book Value shall be determined by a qualified independent business appraiser ("Appraiser") selected by the Holder from three candidates nominated by the Corporation. The Appraiser shall consider all rights and preferences attributable to the Series A Preferred Stock and shall not consider discounts for lack of liquidity, lack of marketability and lack of control when determining Fair Market Value and Book Value.

6. Voting. Except as otherwise expressly provided herein or as required by law, the holders of Series A Preferred Stock shall vote on all issues voted on by holders of Common Stock after giving effect to Conversion.

7. Directors' Voting Rights. The Board of Directors shall have at least one member who is a Holder of Series A Preferred Stock. The Board of Directors shall not without the approval of all Directors who are Holders approve:

(i) any transactions with officers, directors or persons or entities controlled by officers and directors including loans;

(ii) any business combination involving issuing securities of the Corporation or transfer of substantially all of the assets of the Corporation in exchange for securities, money, or services;

(iii) issue promissory notes, debentures, bonds or any other form of indebtedness other than trade payables in the ordinary course of business in an aggregate amount in excess of \$250,000.00; or

(iv) issue any Convertible Securities other than options on common stock to employees or Directors at a price per share of common stock lower than the Original Issue Price

8. Change of Control.

(a) Consideration. Holders of Series A Preferred Stock shall receive a percentage on an after-conversion basis of all consideration tendered to the Corporation, the holders of Common Stock, and members of management, including, but not limited to, consideration for non-competition agreements and employment agreements, received by members of management who own 5% or more of the Common Stock of the Corporation, in a transaction where the Corporation sells substantially all of its assets or fifty-one percent of the common stock of the Corporation changes control.

(b) Buy-Sell. Holders of Series A Preferred Stock shall not be entitled to transfer their shares to persons who are not Affiliates of the Holder, unless such shares are offered first to the Corporation and if the Corporation declines such offer or fails to accept such offer in 120 days, then to the other Holders of Series A Preferred Stock on a pro-rata basis which such Holder shall have 30 days from receipt of such offer to complete the purchase of offered shares. Any shares not purchased by the Corporation or other Holders within the aforementioned time frames may be freely transferred to non-Holders.

(c) Unlocking Provision, Drag Along Rights. If (a) the Corporation receives an offer ("Offer") to purchase substantially all of the assets of the Corporation or all of the Common Stock of the Corporation for a price per share equal to or greater than three times the Original Issue Price, after adjustments set forth in 4(d) of this Article, or (b) at any time after December 31, 2001 the Corporation receives such an Offer at any price, the Holders of Series A Preferred Stock shall each have the option to

accept such Offer for all or part of the Holder's shares if the Holder notifies Corporation of such Offer and after 120 days of receipt of such notice the Corporation declines to purchase the shares on the same terms and conditions of the Offer.

(d) Co-Sale. Holders of Series A Preferred Stock shall have the right to sell a pro-rata number of their shares in any transaction or series of transactions where William Marshall, Mark Silverman or their Affiliates sell in excess of 5% of their Common Stock.

9. Registration Right. Holders of Series A Preferred Stock shall have the right to require the Corporation to register their shares at any time within 3 years after a QIPO provided the Holders shall pay their pro-rata share of underwriting commissions paid in such registration. Holders of Series A Preferred Stock shall have unlimited "piggyback" registration rights subject to underwriter proration.

10. Pre-emptive Rights. Prior to a QIPO, Holders of Series A Preferred Stock shall have pre-emptive rights to purchase a proportionate share of any new stock issues of the Corporation."

3. The foregoing Amendment was approved by a majority of all of the shareholders of the corporation (who constitute the only voting group entitled to vote on the Amendment) at a properly noticed Annual Meeting of the Shareholders held on July 31, 2000 and was unanimously approved by all of the directors of the corporation at a properly noticed Annual Meeting of the Board of Directors of the corporation held on July 31, 2000. Such vote was sufficient for approval by the shareholders and the Board.

IN WITNESS WHEREOF, the undersigned Mark Silverman, director and president of the corporation has executed these Articles of Amendment this 31st day of July, 2000.

GLOBAL CARD SERVICES, INC.

By: 

Mark Silverman, President & Director