

P95000030285

CT CORPORATION SYSTEM

660 EAST JEFFERSON STREET

Requestor's Name
TALLAHASSEE, FL 32301

Address
222-1092

City State Zip Phone

CORPORATION(S) NAME

FILED
97 NOV 26 PM 12:03
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Amended

Equality Acquisition Corporation

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| <input type="checkbox"/> NonProfit | | |
| <input type="checkbox"/> Limited Liability Co. | | |
| <input type="checkbox"/> Foreign | <input type="checkbox"/> Dissolution/Withdrawal | <input type="checkbox"/> Mark |
| <input type="checkbox"/> Limited Partnership | <input type="checkbox"/> Annual Report | <input type="checkbox"/> Other |
| <input type="checkbox"/> Reinstatement | <input type="checkbox"/> Reservation | <input type="checkbox"/> Change of F.A. |
| | | <input type="checkbox"/> Fictitious Name Filing |
| <input type="checkbox"/> Certified Copy | <input type="checkbox"/> Photo Copies | <input type="checkbox"/> CUS |
| <input type="checkbox"/> Call When Ready | <input type="checkbox"/> Call if Problem | <input type="checkbox"/> After 4:30 |
| <input checked="" type="checkbox"/> Walk In | <input type="checkbox"/> Will Wait | <input checked="" type="checkbox"/> Pick Up |
| <input type="checkbox"/> Mail Out | | |

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Document Examiner	POH
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DIVISION OF CORPORATION

FILED
97 NOV 26 PM 12:03
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

**Certificate of Amendment
to
Articles of Incorporation
of
Equality Acquisition Corporation**

The undersigned makes, subscribes, acknowledges and files with the Department of State of Florida this Certificate of Amendment to the Articles of Incorporation for the purpose of canceling its class of stock designated as Class A Senior Redeemable Preferred Stock, issuing a new series of stock designated as Class A Preferred Stock and dividing its Common Stock into four classes, Class A Common Stock, Class B Common Stock, Class C Common Stock and Class D Common Stock, each of which to have the designations, preferences, limitations and relative rights as set forth below:

The proviso to Article IV and Article IV shall be deleted in its entirety and replaced with the following:

ARTICLE IV

CAPITAL STRUCTURE

The total number of shares of all classes of capital stock which the Corporation shall have the authority to issue is 3,000,000 shares of Class A Common Stock, with a par value of one cent (\$0.01) per share (the "Class A Common Stock"), 3,000,000 shares of Class B Common Stock, with a par value of one cent (\$0.01) per share (the "Class B Common Stock"), 1,000,000 shares of Class C Common Stock, with a par value of one cent (\$0.01) per share (the "Class C Common Stock") and 1,000,000 shares of Class D Common Stock with a par value of one cent (\$0.01) per share (the "Class D Common Stock" and together with the Class A Common Stock, the Class B Common Stock and the Class C Common Stock, the "Common Stock") and 2,000,000 shares of Class A Preferred Stock, with a par value of one dollar (\$1.00) per share (the "Preferred Stock").

A description of the respective classes of stock and a statement of the designations, preferences, limitations and relative rights of the Preferred Stock, Class A Common Stock, Class B Common Stock, Class C Common Stock and Class D Common Stock are as follows:

A. Preferred Stock

1. Numbers of Shares. The Preferred Stock shall consist of 2,000,000 shares.

2. Dividends on Preferred Stock.

No dividends shall accumulate on the Preferred Stock; provided, however, that in the event the Board of Directors declares a dividend on the Common Stock, the Board of Directors must first declare and pay a dividend on the Preferred Stock to the extent of the accrued Interest Rate (as defined in Section 3 of this Part A). In the event the Corporation shall declare a dividend on the Preferred Stock, then, in each such case, the dividend shall be distributed ratably among the holders of Preferred Stock then entitled to share in such dividend in proportion to the aggregate liquidation preference of the shares of Preferred Stock and any such other series of Preferred Stock held by each holder of Preferred Stock.

3. Redemption of Preferred Stock. The shares of Preferred Stock shall be redeemed as follows:

(a) Redemption by the Corporation. On November 27, 2017 (the "Maturity Date"), the Corporation shall be required to redeem all of the outstanding shares of Preferred Stock at a redemption price of \$1.00 per share (the "Original Issue Price"), minus the losses (such losses, the "Adjustment"), if any, incurred by the Corporation or the Purchaser (defined in the Stock Purchase and Recapitalization Agreement (the "Stock Purchase Agreement") dated as of November 26, 1997 by and among Saratoga Partners III, L.P., Saratoga Partners III, C.V., the Sellers as defined therein, and the Corporation) which are indemnifiable to the Corporation or Purchaser by the Sellers pursuant to Section 12 of the Stock Purchase Agreement (the remainder of the Original Issue Price minus the Adjustment is hereinafter referred to as the "Redemption Price"), plus, before the time of the assessment of the Adjustment (such time, the "Final Determination"), if ever, an additional amount calculated at the rate of 12% per annum, compounded on an annual basis ("Interest Rate") of the Original Issue Price and after the Final Determination, the Interest Rate of the Redemption Price (such additional amount together with the Redemption Price, the "Accrued Redemption Price").

At any time prior to the Maturity Date, the Corporation shall have the right to redeem any or all of the outstanding shares of Preferred Stock at the Accrued Redemption Price calculated to, but not including the date of redemption.

The Corporation shall give written notice of redemption not less than 7 days prior to the date fixed for redemption to each holder of record of shares of Preferred Stock to be redeemed, by certified mail, postage prepaid, or hand delivery and addressed to each such holder at its address as shown in the records of the Corporation. Such notice shall specify the number of shares to be redeemed, the Accrued

Redemption Price and the place and date (which date shall not be a legal holiday) on which the shares shall be redeemed.

(b) Funds Insufficient for Redemption. If the funds of the Corporation legally available for redemption of shares of Preferred Stock are not sufficient to redeem the total number of shares of Preferred Stock to be redeemed pursuant to this Section 3, the holders of such shares shall share ratably in any funds legally available for redemption of such shares in accordance with the number of such shares held by them. The shares of Preferred Stock not redeemed shall remain outstanding and entitled to all rights and preferences provided herein. At any time thereafter when additional funds of the Corporation are legally available for the redemption of such shares of Preferred Stock such funds will then be used to redeem the balance of such shares, or such portion thereof for which funds are then legally available.

(c) Redeemed or Acquired Shares. Any shares of Preferred Stock redeemed pursuant to this Section 3 or otherwise acquired by the Corporation shall be retired.

4. Liquidation. In the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, the holders of the shares of Preferred Stock then outstanding shall be entitled, before any distribution or payment is made upon the Common Stock or any stock ranking on liquidation junior to the Preferred Stock, to be paid an amount equal to the Accrued Redemption Price. If upon such liquidation, dissolution or winding up of the Corporation, the assets to be distributed among the holders of Preferred Stock are insufficient to permit payment to the holders of Preferred Stock of the full amount payable as aforesaid, then the entire assets of the Corporation to be so distributed shall be distributed among the holders of Preferred Stock ratably in accordance with the number of shares of Preferred Stock held by them. Upon any such liquidation, dissolution or winding up of the Corporation, after the holders of Preferred Stock shall have been paid in full the amounts to which they shall be entitled, the remaining net assets of the Corporation may be distributed to the holders of Common Stock or other stock ranking on liquidation junior to the Preferred Stock.

The Corporation shall give written notice of such liquidation, dissolution or winding up, not less than 30 days prior thereto, to each holder of record of Preferred Stock, by certified mail, postage prepaid and addressed to each such holder at its address as shown by the records of the Corporation. Such notice shall specify the amount of the liquidation payments and the place where such payments shall be payable.

The consolidation or merger of the Corporation into or with any other entity or entities which results in the exchange of outstanding shares of the Corporation for securities or other consideration issued or paid or caused to be issued or paid by any such entity or affiliate thereof, and the sale or transfer by the Corporation of all or substantially all its assets, shall be deemed to be a liquidation, dissolution or winding up of the Corporation within the meaning of the provisions of this Section 4.

5. Voting Rights

(a) General. The Preferred Stock shall have no voting rights, except as set forth in paragraph (b) below.

(b) Vote to Change Rights, Preferences, and Powers of Preferred Stock. So long as any shares of Preferred Stock are outstanding, the Corporation shall not, without the affirmative vote at a meeting (the notice of which shall state the general character of the matters to be submitted thereat), or the written consent with or without a meeting, of the holders of at least 85% of the then outstanding shares of Preferred Stock, voting as a separate class:

(i) Increase the authorized amount of Preferred Stock, issue, reissue, or authorize the issuance of authorized but unissued shares of Preferred Stock or authorize or create any additional class of preferred stock, except that no such vote or consent shall be required pursuant to this Section 5(b)(i) if promptly after any such authorization and immediately after any such issuance or reissuance, all shares of Preferred Stock outstanding prior to such authorization, issuance or reissuance shall have been redeemed in full; or

(ii) Amend, alter or repeal any of the provisions of the Articles of Incorporation relating to the rights, preferences or powers of the outstanding Preferred Stock fixed herein; or

(iii) Amend or repeal any of the provisions of this Section 5; or

6. Change of Control. In the event of a Change of Control (as defined in the Shareholders Agreement dated as of November 26, 1997 by and among the Corporation and certain shareholders of the Corporation signatories thereto, the Corporation is required to redeem the Preferred Stock at the Accrued Redemption Price.

7. Amendments. No provision of these terms of the Preferred Stock may be amended, modified or waived without the written consent or the affirmative vote of the holders of at least 85% of the then outstanding shares of Preferred Stock.

8. Covenants. The Company shall be required to send, on a quarterly basis, the financial statements of the Company to an agent appointed by the holders of the Preferred Stock.

B. Class A and Class B Common Stock.

1. Voting Rights. (i) Each share of Class A Common Stock shall be entitled to one vote on all matters submitted to the vote of the stockholders of the Corporation.

(ii) Except as otherwise required by law or expressly provided herein, each share of Class B Common Stock shall not be entitled to vote on any matter submitted to a vote of the stockholders of the corporation. The holders of Class B Common Stock shall be entitled to vote as a separate class on any amendment, repeal or modification of any provision of this Certificate of Incorporation that adversely affects the powers, preferences or special rights of the Class B Common Stock in a manner different from the adverse effect on the powers, preferences or special rights of the Class A Common Stock.

(iii) On any matter on which the holders of both Class A Common Stock and Class B Common Stock are entitled to vote (other than the matters referred to in the second sentence of subpart (ii) above), the holders of Class A Common Stock and Class B Common Stock shall vote together as a single class with each such holder being entitled to one vote for each share of Class A Common Stock and Class B Common Stock, as the case may be, held by such holder.

2. Common Stock Conversion Rights. Upon compliance with the provisions of this part 2 of Article IV any Regulated Stockholder (as hereinafter defined) shall be entitled to convert, at any time and from time to time, any and all of the shares of Class A Common Stock held by such holder into the same number of Shares of Class B Common Stock.

(i) As used herein, (x) "Regulated Stockholder" means (a) any stockholder that is subject to the provisions of Regulations Y of the Board of Governors of the Federal Reserve System (12 C.F.R. Part 225) or any successor to such regulation ("Regulation Y"), so long as such stockholder shall hold, and only with respect to, any Class A Common Stock or Class B Common Stock, or shares issued upon conversion of such stock, (b) any Affiliate (as hereinafter defined) of a Regulated Stockholder that is a transferee of any Class A Common Stock or Class B Common Stock, so long as such Affiliate shall hold, and only with respect to, any such shares of stock or shares issued upon conversion of such shares and (c) an individual, partnership, joint venture, corporation, association, trust or any other entity or organization, including a government or political

subdivision or any agency or instrumentality thereof (a "Person"), to which a Regulated Stockholder or any of its Affiliates has transferred any Class A Common Stock or Class B Common Stock, so long as such transferee shall hold, and only with respect to, any shares of such stock transferred by such stockholder or Affiliates or any shares issued upon conversion of such shares but only if such Person is (or any Affiliate of such Person is) subject to the provisions of Regulation Y or such shares are deemed controlled by the transferor pursuant to Section 12(g)(3) of the Bank Holding Company Act of 1956, as amended (the "BHCA"); and (y) "Affiliate" means, with respect to any Person, any other Person directly or indirectly controlling, controlled by or under common control with such Person; for the purpose of the foregoing definition, the term "control" (including with correlative meanings, the terms "controlling," "controlled by," and "under common control with") as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or by contract or otherwise.

The Corporation shall not convert or directly or indirectly purchase or otherwise acquire any shares of Class A Common Stock or take any other action affecting the voting rights of the holders of such shares, if such action will increase the percentage of outstanding Class A Common Stock owned by or controlled by any Regulated Stockholder (other than the stockholder which requested that the corporation take such action, or which otherwise waives in writing its rights under this subpart (i) unless the corporation gives written notice (the "First Notice") of such action to each Regulated Stockholder. The corporation will defer making any such conversion, purchase or other acquisition or taking any such other action for a period of 30 days (the "Deferral Period") after giving the First Notice in order to allow each such Regulated Stockholder to determine whether it wishes to convert or take any other action with respect to the Class A Common Stock it owns, controls or has the power to vote, and if any such Regulated Stockholder then elects to convert any shares of the Class A Common Stock, it shall notify the corporation in writing within 20 days of the issuance of the First Notice, in which case the corporation shall (x) promptly notify from time to time each other Regulated Stockholder holding shares of Class A Common Stock of each such proposed conversion by a Regulated Stockholder, and (y) effect the conversion requested by all Regulated Stockholders in response to the notices given pursuant to subpart (iii) below at the end of the Deferral Period or as soon thereafter as is reasonably practicable. Notwithstanding anything to the contrary contained in this Certificate of Incorporation, the corporation will not directly or indirectly redeem, purchase, acquire or take any other action affecting outstanding Class A Common Stock if such action will increase above 24.9% the percentage of outstanding Common Stock owned by or controlled by any Regulated Stockholder and its Affiliates (other than a stockholder which waives in writing its rights under this paragraph).

(ii) Upon compliance with the provisions of subpart (iii) below, any holder of shares of Class B Common Stock shall be entitled to convert, at any time and from time to time, any and all shares of Class B Common Stock into the same number of shares of Class A Common Stock; provided, however, that no Regulated Stockholder shall be entitled to convert any such shares into shares of Class A Common Stock, and the corporation shall not be required to record such conversion, to the extent that, as a result of such conversion, such holder and its Affiliates, directly or indirectly, would own, control or have the power to vote a greater number of shares of Class A Common Stock or other securities of any kind issued by the corporation than such holder and its Affiliates shall be permitted to own, control or to have the power to vote under any law, regulation, rule or other requirement of any governmental authority at the time applicable to such holder or its Affiliates.

If the Corporation shall in any manner subdivide (by stock split, reclassification, stock dividend or otherwise) or combine (by reverse stock split, reclassification or otherwise) the outstanding shares of the Class A Common Stock or Class B Common Stock, the outstanding shares of the other class shall be proportionately subdivided, reclassified or combined, as the case may be, and effective provision shall be made for the protection of all conversion rights hereunder. In case of any reorganization, reclassification or change of shares of Class A Common Stock or Class B Common Stock (other than a change in par value, or from par value to no par value as result of a subdivision or combination), or in case of any consolidation of the corporation with one or more other corporations or a merger of the corporation with another entity (other than a consolidation or merger in which the corporation is the continuing corporation and which does not result in any reclassification or change of outstanding shares of Class A Common Stock or Class B Common Stock), or in case of any sale, lease or other disposition to another entity (other than a wholly-owned subsidiary of the corporation) of all or substantially all of the assets of the corporation, each holder of a share of Class A Common Stock or Class B Common Stock shall have the right at any time thereafter, so long as the conversion right hereunder with respect to such share of Class A Common Stock or Class B Common Stock would exist had such event not occurred, to convert such share into the kind and amount of shares of stock and other securities and property (including cash) receivable upon such reorganization, reclassification, change, consolidation, merger, sale, lease or other disposition by a holder of the number of shares of Class A Common Stock or Class B Common Stock into which such shares of Class A Common Stock or Class B Common Stock, as the case may be, might have been converted immediately prior to such reorganization, reclassification, change, consolidation, merger, sale, lease or other disposition. In the event of such reorganization, reclassification, change, consolidation, merger, sale, lease or other disposition, effective provision shall be made in the certificate of incorporation of the resulting or surviving cor-

poration or otherwise for the protection of the conversion right of the shares of Class A Common Stock or Class B Common Stock that shall be applicable, as nearly as reasonably may be, to any such other shares of stock and other securities and property deliverable upon conversion of the shares of Class A Common Stock or Class B Common Stock into which such shares of Common Stock might have been converted immediately prior to such event. The corporation shall not have the power to be a party to any merger, consolidation or recapitalization pursuant to which any holder of shares of Common Stock would be required to take (x) any voting securities, the voting provisions of which would cause such holder to violate any law, regulation or other requirement of any governmental body of the United States of America or any political subdivision thereof, applicable to such holder or (y) any securities convertible into voting securities, the voting provisions of which if such conversion took place would cause such holder to violate any law, regulation or other requirement of any governmental body of the United States of America or any political subdivision thereof, applicable to such holder other than securities which are specifically provided to be convertible only in the event that such conversion may occur without any such violation.

(iii) To convert Class A Common Stock or Class B Common Stock into Class B Common Stock or Class A Common Stock, as the case may be, a holder must: (w) deliver written notice to the corporation (or, if a conversion agent has been designated, to such agent) (x) surrender the Common Stock certificate to the officer or agent designated by the Corporation, in a written notice to such person, as conversion agent or if no such offer or agent is so designated, to the corporation (the "Common Stock Conversion Agent"); (y) if the shares are being issued in a name other than that of the holder, furnish appropriate endorsements and transfer documents if required by the registrar for the corporation's stock or the Common Stock Conversion Agent; and (z) if the shares are being issued in a name other than that of the holder, pay any transfer tax or similar tax if required by subpart (iv) below. Except in the case of a conversion subject to the second paragraph of subpart (i) above, the date on which the holder of Common Stock satisfies all of the foregoing requirements (w) through (y) is the conversion date. In the case of a conversion subject to the second paragraph of subpart (i) above, the conversion shall be deemed effective upon expiration of the Deferral Period referred to therein, and, at such time, the person(s) in whose name or names any certificate(s) evidencing the converted shares are to be issued upon such conversion shall be deemed to have become the holder(s) of record of the converted shares. As soon as practicable, the corporation shall deliver through the Common Stock Conversion Agent a certificate for the number of shares of Common Stock issuable upon the conversion. The person or persons in whose name the certificate or certificates are registered shall be treated as a stockholder or stockholders of record on or after the conversion date. If less than all the shares represented by the Com-

mon Stock certificate are being converted, a new stock certificate representing the unconverted shares shall be promptly issued by the corporation to the holder thereof.

(iv) If a holder converts shares of Common Stock, the corporation shall pay any documentary, stamp or similar issue or transfer tax due on the issue of shares of Class B Common Stock or Class A Common Stock, as the case may be, upon such conversion. However, the holder shall pay any such tax which is due if and because the shares are issued in a name other than that of such holder.

(v) The Corporation shall reserve out of its authorized but unissued Class A Common Stock and Class B Common Stock and its Class A Common Stock and Class B Common Stock held in treasury sufficient shares of Class A Common Stock and Class B Common Stock to permit the conversion of all Class A Common Stock and Class B Common Stock pursuant to this part (B). All shares of Class A Common Stock and Class B Common Stock issued upon such conversion shall be fully paid and non-assessable.

Shares of Class A Common Stock and Class B Common Stock that have been converted into shares of the other class shall thereupon be cancelled, shall cease to be issued shares and shall not be reissued, except for reissuance in connection with the conversion of shares of Class A and Class B Common Stock into shares of the other class by the Regulated Stockholders.

(vi) Notwithstanding any other provision of this part B of Article IV, the Corporation shall be entitled to rely for all corporate purposes exclusively and without independent verification and without regard to any other information of which it may at any time have knowledge upon the most recent certification it shall at any time have received from any holder as to, (1) whether or not such holder is a Regulated Stockholder, (2) the number of shares of Class A Common Stock owned or controlled by such holder, (3) the number of shares of Common Stock owned or controlled by such holder and its Affiliates, (4) whether or not any conversion proposed by such holder would result in such holder and its Affiliates, directly or indirectly, owning, controlling or having the power to vote a greater number of shares of Class A Common Stock or other securities of any kind issued by the corporation than such holder and its Affiliates shall be permitted to own, control or to have the power to vote under any law, regulation, rule or other requirement of any governmental authority at the time applicable to such holder or its Affiliates, and (5) whether or not any proposed merger, consolidation or recapitalization referred to in the last sentence of subpart (ii) above of which the corporation has given such holder at least twenty (20) days prior written notice would result in a violation referred to in such sentence. If the corporation shall not have received a certification as to any of the matters referred to in clauses (1) through (5) above from any holder, the Corporation shall be enti-

tled to assume for all corporate purposes, without independent verification and without regard to any other information of which it may have knowledge, that (1) such holder is not a Regulated Stockholder, (2) such holder does not own or control any shares of Class A Common Stock other than shares owned of record by such holder, (3) such holder and its Affiliates do not own or control any shares of Common Stock other than shares owned of record by such holder, (4) any conversion proposed by such holder will not result in such holder and its Affiliates, directly or indirectly, owning, controlling or having the power to vote a greater number of shares of Class A Common Stock or other securities issued by the corporation than such holder and its Affiliates are permitted to own, control or have the power to vote under any law, regulation, rule or other requirement of any governmental authority at the time applicable to such holder or its Affiliates, and (5) such merger, consolidation or recapitalization will not result in such a violation, respectively.

(vii) Upon the filing of this Certificate of Amendment to the Certificate of Incorporation with the Department of State of Florida, all shares of common stock of the corporation then outstanding shall automatically and without further action be converted into an equal number of shares of Class A Common Stock.

3. Liquidation Rights. In the event of any liquidation, dissolution or winding up of the affairs of the Corporation, whether voluntary or involuntary, the assets of the Corporation shall be available for distribution, ratably, to the holders of outstanding shares of Class A Common Stock and Class B Common Stock (collectively, "Senior Common Stock"), share and share alike, and the holders of such shares of Senior Common Stock shall have preference over the liquidation of the Class C Common Stock and Class D Common Stock (collectively, "Junior Common Stock") to the extent of the Initial Investment Amount (as defined in Part C) in respect of such outstanding shares of Senior Common Stock less the aggregate amount of all dividends and distributions paid in respect of such shares (such net amount per share, the "Net Investment Amount").

4. Dividend Rights. In the event the Board of Directors declares and pays, out of funds legally available therefor, a dividend on the Common Stock, the Board of Directors must first declare and pay a dividend, on the outstanding shares of Senior Common Stock, in an amount equal to the Net Investment Amount in respect of such shares. Any such dividends shall be payable on shares of Class A Common Stock and Class B Common Stock share and share alike; provided that no dividends shall be payable, with respect to the Class A Common Stock or Class B Common Stock, in either Class A Common Stock or Class B Common Stock, or options, warrants or rights to acquire such stock, or securities convertible into or exchangeable for such stock, unless the shares, options, warrants, rights or securities so payable, are payable, with respect to the Class A Common Stock or Class B Common Stock, in shares of, or options, warrants or rights to

acquire or securities convertible into or exchangeable for, Class A Common Stock or Class B Common Stock of the same type upon which the dividend is being paid.

5. No Reissuance. Any shares of Senior Common Stock redeemed or otherwise acquired by the Corporation shall be retired.

C. Class C and Class D Common Stock

1. Restrictions on Distributions. No dividends on, or redemptions of, or other distributions with respect to the Junior Common Stock shall be declared, paid or otherwise made unless and until each outstanding share of Senior Common Stock has received, in the form of dividends, payments upon redemption or other distributions, an amount in cash equal to \$ 49.53 per share ("Initial Investment Amount"); provided, however, that following receipt of the Initial Investment Amount by the holders of such shares of Senior Common Stock, the Junior Common Stock shall have the same rights and preferences with regard to the declaration of dividends or redemptions as the holders of Senior Common Stock, share and share alike. Any such dividends shall be payable on shares of Class C Common Stock and Class D Common Stock share and share alike; provided that no dividends shall be payable, with respect to the Class C Common Stock or Class D Common Stock, in either Class C Common Stock or Class D Common Stock, or options, warrants or rights to acquire such stock, or securities convertible into or exchangeable for such stock, unless the shares, options, warrants, rights or securities so payable, are payable, with respect to the Class C Common Stock or Class D Common Stock, in shares of, or options, warrants or rights to acquire or securities convertible into or exchangeable for, Class C Common Stock or Class D Common Stock of the same type upon which the dividend is being paid.

2. Liquidation. In the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, the holders of the shares of Senior Common Stock then outstanding shall be entitled, before any distribution or payment is made upon the Junior Common Stock, to be paid an amount equal to the Net Investment Amount in respect of such shares. Upon any such liquidation, dissolution or winding up of the Corporation, after the holders of Senior Common Stock shall have been paid in full the Net Investment Amount, the remaining net assets shall be available for distribution, ratably, to the holders of Senior Common Stock and Junior Common Stock, share and share alike.

3. Voting Rights. (i) Each share of Class D Common Stock shall be entitled to one vote on all matters submitted to the vote of the stockholders of the Corporation.

(ii) Except as otherwise required by law or expressly provided herein, each share of Class C Common Stock shall not be entitled to vote on any matter submitted to a vote of the stockholders of the corporation. The holders of Class C Common Stock shall be entitled to vote as a separate class on any amendment, repeal or modification of any provision of this Certificate of Incorporation that adversely affects the powers, preferences or special rights of the Class C Common Stock in a manner different from the adverse effect on the powers, preferences or special rights of the Class D Common Stock. The holders of Class C Common Stock and Class D Common Stock shall be entitled to vote together as a single class on any repeal or modification of any provision of this Certificate of Incorporation that adversely affects the powers, preference or special rights of the Class D and Class C Common Stock in a manner different from the adverse effect in the powers, preference or special rights of the Senior Common Stock.

(iii) On any matter on which the holders of both Class C Common Stock and Class B Common Stock are entitled to vote (other than the matters referred to in the second sentence of subpart (ii) above), the holders of Class C Common Stock and Class D Common Stock shall vote together as a single class with each such holder being entitled to one vote for each share of Class C Common Stock and Class D Common Stock, as the case may be, held by such holder.

(iv) No additional shares of Senior Common Stock shall be authorized for issuance without the written consent of the affirmative vote of the holders of at least 85% of the then outstanding shares of Junior Common Stock.

4. Conversion Rights. Upon compliance with the provisions of this part 4 of Article IV, any Regulated Stockholder (as hereinafter defined) shall be entitled to convert, at any time and from time to time, any and all of the shares of Class D Common Stock held by such holder into the same number of Shares of Class C Common Stock.

(i) As used herein, (x) "Regulated Stockholder" means (a) any stockholder that is subject to the provisions of Regulations Y of the Board of Governors of the Federal Reserve System (12 C.F.R. Part 225) or any successor to such regulation ("Regulation Y"), so long as such stockholder shall hold, and only with respect to, any Class C Common Stock or Class D Common Stock, or shares issued upon conversion of such stock, (b) any Affiliate (as hereinafter defined) of a Regulated Stockholder that is a transferee of any Class C Common Stock or Class D Common Stock, so long as such Af-

affiliate shall hold, and only with respect to, any such shares of stock or shares issued upon conversion of such shares and (c) an individual, partnership, joint venture, corporation, association, trust or any other entity or organization, including a government or political subdivision or any agency or instrumentality thereof (a "Person"), to which a Regulated Stockholder or any of its Affiliates has transferred any Class C Common Stock or Class D Common Stock, so long as such transferee shall hold, and only with respect to, any shares of such stock transferred by such stockholder or Affiliates or any shares issued upon conversion of such shares but only if such Person is (or any Affiliate of such Person is) subject to the provisions of Regulation Y or such shares are deemed controlled by the transferor pursuant to Section 12(g)(3) of the Bank Holding Company Act of 1956, as amended (the "BHCA"); and (y) "Affiliate" means, with respect to any Person, any other Person directly or indirectly controlling, controlled by or under common control with such Person; for the purpose of the foregoing definition, the term "control" (including with correlative meanings, the terms "controlling," "controlled by," and "under common control with") as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or by contract or otherwise.

The Corporation shall not convert or directly or indirectly purchase or otherwise acquire any shares of Class D Common Stock or take any other action affecting the voting rights of the holders of such shares, if such action will increase the percentage of outstanding Class D Common Stock owned by or controlled by any Regulated Stockholder (other than the stockholder which requested that the corporation take such action, or which otherwise waives in writing its rights under this subpart (i) unless the corporation gives written notice (the "First Notice") of such action to each Regulated Stockholder. The corporation will defer making any such conversion, purchase or other acquisition or taking any such other action for a period of 30 days (the "Deferral Period") after giving the First Notice in order to allow each such Regulated Stockholder to determine whether it wishes to convert or take any other action with respect to the Class D Common Stock it owns, controls or has the power to vote, and if any such Regulated Stockholder then elects to convert any shares of the Class C Common Stock, it shall notify the corporation in writing within 20 days of the issuance of the First Notice, in which case the corporation shall (x) promptly notify from time to time each other Regulated Stockholder holding shares of Class C Common Stock of each such proposed conversion by a Regulated Stockholder, and (y) effect the conversion requested by all Regulated Stockholders in response to the notices given pursuant to subpart (iii) below at the end of the Deferral Period or as soon thereafter as is reasonably practicable. Notwithstanding anything to the contrary contained in this Certificate of Incorporation, the corporation will not directly or indirectly redeem, purchase, acquire or take any other action affecting outstanding Class C Common Stock if such action will

increase above 24.9% the percentage of outstanding Common Stock owned by or controlled by any Regulated Stockholder and its Affiliates (other than a stockholder which waives in writing its rights under this paragraph).

(ii) Upon compliance with the provisions of subpart (iii) below, any holder of shares of Class C Common Stock shall be entitled to convert, at any time and from time to time, any and all shares of Class C Common Stock into the same number of shares of Class D Common Stock; provided, however, that no Regulated Stockholder shall be entitled to convert any such shares into shares of Class D Common Stock, and the corporation shall not be required to record such conversion, to the extent that, as a result of such conversion, such holder and its Affiliates, directly or indirectly, would own, control or have the power to vote a greater number of shares of Class D Common Stock or other securities of any kind issued by the corporation than such holder and its Affiliates shall be permitted to own, control or to have the power to vote under any law, regulation, rule or other requirement of any governmental authority at the time applicable to such holder or its Affiliates.

If the Corporation shall in any manner subdivide (by stock split, reclassification, stock dividend or otherwise) or combine (by reverse stock split, reclassification or otherwise) the outstanding shares of the Class C Common Stock or Class D Common Stock, the outstanding shares of the other class shall be proportionately subdivided, reclassified or combined, as the case may be, and effective provision shall be made for the protection of all conversion rights hereunder. In case of any reorganization, reclassification or change of shares of Class C Common Stock or Class D Common Stock (other than a change in par value, or from par value to no par value as result of a subdivision or combination), or in case of any consolidation of the corporation with one or more other corporations or a merger of the corporation with another entity (other than a consolidation or merger in which the corporation is the continuing corporation and which does not result in any reclassification or change of outstanding shares of Class C Common Stock or Class D Common Stock), or in case of any sale, lease or other disposition to another entity (other than a wholly-owned subsidiary of the corporation) of all or substantially all of the assets of the corporation, each holder of a share of Class C Common Stock or Class D Common Stock shall have the right at any time thereafter, so long as the conversion right hereunder with respect to such share of Class C Common Stock or Class D Common Stock would exist had such event not occurred, to convert such share into the kind and amount of shares of stock and other securities and property (including cash) receivable upon such reorganization, reclassification, change, consolidation, merger, sale, lease or other disposition by a holder of the number of shares of Class C Common Stock or Class D Common Stock into which such shares of Class C Common Stock or Class D Common Stock, as the case may be, might have been converted immediately prior to such reorganization, reclassification, change,

consolidation, merger, sale, lease or other disposition. In the event of such reorganization, reclassification, change, consolidation, merger, sale, lease or other disposition, effective provision shall be made in the certificate of incorporation of the resulting or surviving corporation or otherwise for the protection of the conversion right of the shares of Class C Common Stock or Class D Common Stock that shall be applicable, as nearly as reasonably may be, to any such other shares of stock and other securities and property deliverable upon conversion of the shares of Class C Common Stock or Class D Common Stock into which such shares of Common Stock might have been converted immediately prior to such event. The corporation shall not have the power to be a party to any merger, consolidation or recapitalization pursuant to which any holder of shares of Common Stock would be required to take (x) any voting securities, the voting provisions of which would cause such holder to violate any law, regulation or other requirement of any governmental body of the United States of America or any political subdivision thereof, applicable to such holder or (y) any securities convertible into voting securities, the voting provisions of which if such conversion took place would cause such holder to violate any law, regulation or other requirement of any governmental body of the United States of America or any political subdivision thereof, applicable to such holder other than securities which are specifically provided to be convertible only in the event that such conversion may occur without any such violation.

(iii) To Convert Class C Common Stock or Class D Common Stock into Class D Common Stock or Class C Common Stock, as the case may be, a holder must: (w) deliver written notice to the corporation (or, if a conversion agent has been designated, to such agent) (x) surrender the Common Stock certificate to the officer or agent designated by the Corporation, in a written notice to such person, as conversion agent or if no such offer or agent is so designated, to the corporation (the "Common Stock Conversion Agent"); (y) if the shares are being issued in a name other than that of the holder, furnish appropriate endorsements and transfer documents if required by the registrar for the corporation's stock or the Common Stock Conversion Agent; and (z) if the shares are being issued in a name other than that of the holder, pay any transfer tax or similar tax if required by subpart (iv) below. Except in the case of a conversion subject to the second paragraph of subpart (i) above, the date on which the holder of Common Stock satisfies all of the foregoing requirements (w) through (y) is the conversion date. In the case of a conversion subject to the second paragraph of subpart (i) above, the conversion shall be deemed effective upon expiration of the Deferral Period referred to therein, and, at such time, the person(s) in whose name or names any certificate(s) evidencing the converted shares are to be issued upon such conversion shall be deemed to have become the holder(s) of record of the converted shares. As soon as practicable, the corporation shall deliver through the Common Stock Conversion Agent a certificate for the number of shares of Common Stock issuable upon the conversion. The person or persons in whose name the

certificate or certificates are registered shall be treated as a stockholder or stockholders of record on or after the conversion date. If less than all the shares represented by the Common Stock certificate are being converted, a new stock certificate representing the unconverted shares shall be promptly issued by the corporation to the holder thereof.

(iv) If a holder converts shares of Common Stock, the corporation shall pay any documentary, stamp or similar issue or transfer tax due on the issue of shares of Class D Common Stock or Class C Common Stock, as the case may be, upon such conversion. However, the holder shall pay any such tax which is due if and because the shares are issued in a name other than that of such holder.

(v) The Corporation shall reserve out of its authorized but unissued Class C Common Stock and Class D Common Stock and its Class C Common Stock and Class D Common Stock held in treasury sufficient shares of Class C Common Stock and Class D Common Stock to permit the conversion of all Class C Common Stock and Class D Common Stock pursuant to this part (B). All shares of Class A Common Stock and Class B Common Stock issued upon such conversion shall be fully paid and non-assessable.

Shares of Class C Common Stock and Class D Common Stock that have been converted into shares of the other class shall thereupon be cancelled, shall cease to be issued shares and shall not be reissued, except for reissuance in connection with the conversion of shares of Class C and Class D Common Stock into shares of the other class by the Regulated Stockholders.

(vi) Notwithstanding any other provision of this part C of Article IV, the Corporation shall be entitled to rely for all corporate purposes exclusively and without independent verification and without regard to any other information of which it may at any time have knowledge upon the most recent certification it shall at any time have received from any holder as to, (1) whether or not such holder is a Regulated Stockholder, (2) the number of shares of Class D Common Stock owned or controlled by such holder, (3) the number of shares of Common Stock owned or controlled by such holder and its Affiliates, (4) whether or not any conversion proposed by such holder would result in such holder and its Affiliates, directly or indirectly, owning, controlling or having the power to vote a greater number of shares of Class D Common Stock or other securities of any kind issued by the corporation than such holder and its Affiliates shall be permitted to own, control or to have the power to vote under any law, regulation, rule or other requirement of any governmental authority at the time applicable to such holder or its Affiliates, and (5) whether or not any proposed merger, consolidation or recapitalization referred to in the last sentence of subpart (ii) above of which the corporation has given such holder at least twenty (20) days prior written notice would result in a violation referred to in such sen-

tence. If the corporation shall not have received a certification as to any of the matters referred to in clauses (1) through (5) above from any holder, the corporation shall be entitled to assume for all corporate purposes, without independent verification and without regard to any other information of which it may have knowledge, that (1) such holder is not a Regulated Stockholder, (2) such holder does not own or control any shares of Class D Common Stock other than shares owned of record by such holder, (3) such holder and its Affiliates do not own or control any shares of Common Stock other than shares owned of record by such holder, (4) any conversion proposed by such holder will not result in such holder and its Affiliates, directly or indirectly, owning, controlling or having the power to vote a greater number of shares of Class D Common Stock or other securities issued by the corporation than such holder and its Affiliates are permitted to own, control or have the power to vote under any law, regulation, rule or other requirement of any governmental authority at the time applicable to such holder or its Affiliates, and (5) such merger, consolidation or recapitalization will not result in such a violation, respectively.

The shareholders of the Corporation, by unanimous consent, hereby adopt this Certificate of Amendment to these Articles of Incorporation on November 26, 1997. In witness whereof, the Vice President and the Secretary execute this Certificate of Amendment pursuant to such consent.

By: 

Name: Charles G. Vaughn

Title: Vice President

By: 

Name: Robert P. Saltsman

Title: Secretary