

P96000071955

Florida Department of State

Division of Corporations

Public Access System

Katharine Harris, Secretary of State

Electronic Filing Cover Sheet

Note: Please print this page and use it as a cover sheet. Type the fax audit number (shown below) on the top and bottom of all pages of the document.

((H00000014574 8)))

Note: DO NOT hit the REFRESH/RELOAD button on your browser from this page. Doing so will generate another cover sheet.

To:

Division of Corporations

Fax Number : (850) 922-4000

From:

Account Name : MCGUIRE, WOODS, BATTLE & BOOTHE LLP

Account Number : 071075000166

Phone : (904) 798-3200

Fax Number : (904) 798-3207

FILED
00 APR -3 AM 11:46
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

BASIC AMENDMENT

PURELY COTTON, INC.

Certificate of Status	0
Certified Copy	0
Page Count	19
Estimated Charge	\$35.00

Amended & Restated
Articles

RECEIVED
00 APR -3 AM 8:06
DIVISION OF CORPORATIONS

**AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
PURELY COTTON, INC.**

H00000014574
FILED
MAR - 3 AM 11:45
TALLAHASSEE, FLORIDA

Pursuant to Sections 607.1006 and 607.1007 of the Florida Business Corporation Act (the "FBCA"), the undersigned corporation adopts the following Amended and Restated Articles of Incorporation:

FIRST: The name of the corporation is Purely Cotton, Inc. (the "Corporation").

SECOND: The Amended and Restated Articles of Incorporation were duly adopted on March 30, 2000.

THIRD: The Amended and Restated Articles of Incorporation were adopted by the Board of Directors and recommended to the Corporation's shareholders.

FOURTH: The Amended and Restated Articles of Incorporation were approved by the Corporation's shareholders and the vote cast was sufficient for approval. The holders of Voting Common Stock and Series C Preferred Stock were entitled to vote separately and the votes cast by each voting group were sufficient for approval.

FIFTH: The Articles of Incorporation of Purely Cotton, Inc. are hereby amended and restated in their entirety as follows:

ARTICLE I

Name and Duration

The name of the corporation is Purely Cotton, Inc. The duration of the Corporation is perpetual.

ARTICLE II

Principal Office

The Corporation has no principal location in the State of Florida. The mailing address of the Corporation is 200 First Avenue West, Suite 505, Seattle, Washington 98119.

ARTICLE III

Registered Office and Agent

The address of the registered office in the State of Florida is 660 East Jefferson Street, City of Tallahassee, County of Leon. The name of the registered agent at such address is CT Corporation System.

H00000014574

H00000014574

ARTICLE IV**Corporate Purposes, Powers and Rights**

1. The nature of the business to be conducted or promoted and the purposes of the Corporation are to engage in any lawful act or activity for which corporations may be organized under the Florida Business Corporation Act.
2. In furtherance of its corporate purposes, the Corporation shall have all of the general and specific powers and rights granted to and conferred on a corporation by the Florida Business Corporation Act.

ARTICLE V**Capital Stock**

1. **Authorized Capital.** The maximum number of shares of stock which the Corporation is authorized to have outstanding at any one time is 48,000,000 shares, which shall be divided into classes as follows:
 - (a) Twenty Two Million (22,000,000) shares of preferred stock, par value \$.01 (hereinafter referred to as "Preferred Stock"), and the Directors shall have the authority for such shares to be designated Series C Voting Preferred Stock or as Series C Non-Voting Preferred Stock (and the Series C Voting Preferred Stock and the Series C Non-Voting Preferred Stock are sometimes collectively referred to herein as the "Series C Preferred Stock");
 - (b) Twenty Five Million (25,000,000) shares of voting common stock, par value \$.01 (hereinafter referred to as "Voting Common Stock"); and
 - (c) One Million (1,000,000) shares of non-voting common stock, par value \$.01 (hereinafter referred to as "Non-Voting Common Stock", with the Voting Common Stock and Non-Voting Common Stock sometimes collectively referred to herein as the "Common Stock").

All such shares, when issued, shall be fully paid and non-assessable.

2. **Preferred Stock.** The Board of Directors is authorized at any time and from time to time to divide the Preferred Stock into one or more series and to fix and determine the relative rights, preferences and limitations of the shares of any series so established. The Board of Directors shall adopt a resolution establishing and designating the series, determining the number of shares which shall constitute such series and determining the relative rights, preferences and limitations thereof, which relative rights, preferences and limitations may differ with respect to each series as to:

- (a) The rate or manner of payment of dividends on such series, including the dividend rate, the date of declaration and payment, and whether and the extent to which such dividends shall be cumulative;
- (b) Whether the shares of such series may be redeemed, and if so, the redemption price and the terms and conditions of redemption;
- (c) The amount payable upon shares of such series in the event of voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation;

H00000014574

- (d) Sinking fund provisions, if any, for the redemption or purchase of shares of such series;
- (e) The terms and conditions, if any, on which shares of such series may be converted into shares of any other class or series;
- (f) Voting rights, if any; and
- (g) Any other relative rights, preferences and limitations for such series which Florida law empowers the Board of Directors to determine.

Except in respect to the relative rights, preferences and limitations that may be fixed by the Board of Directors pursuant to this Section, all shares of Preferred Stock shall be identical.

Dividends on outstanding shares of Preferred Stock shall be declared and paid or set apart for payment before any dividends shall be declared and paid or set apart for payment on the outstanding shares of Common Stock with respect to the same quarterly period. Dividends on any shares of Preferred Stock shall be cumulative only if and to the extent determined by resolution of the Board of Directors, as provided above. In the event of any liquidation, dissolution or winding up of the affairs of Corporation, whether voluntary or involuntary, the outstanding shares of Preferred Stock shall have preference and priority over the outstanding shares of Common Stock for payment of the amount, if any, to which shares of each outstanding series of Preferred Stock may be entitled in accordance with the terms and rights thereof and each holder of Preferred Stock shall be entitled to be paid in full such amount, or have a sum sufficient for the payment in full set aside, before any such payments shall be made to the holders of Common Stock.

3. Conversion of the Non-Voting Common Stock. Each share of Non-Voting Common Stock shall automatically convert into a share of Voting Common Stock upon a sale of such Non-Voting Common Share (i) in a public offering, (ii) in a tender offer or other sale of control approved by the Board of Directors of the Corporation, such that the Non-Voting Common Stock is treated on a pari passu basis with the Voting Common Stock, and/or (iii) by the holder thereof to an unaffiliated third party provided that such sale is not in an amount exceeding two percent (2%) of the aggregate Voting Common Stock then outstanding. In addition, the Non-Voting Common Stock shall be convertible at any time from time to time into Voting Common Stock at the option of the holder of such Non-Voting Common Stock, so long as such conversion does not violate any applicable banking laws or regulations.

4. Common Stock. Each holder of Voting Common Stock shall have one vote for each share of Voting Common Stock standing in his name on the books of the Corporation. Holders of Non-Voting Common Stock shall have no right to vote their shares of Non-Voting Common Stock, except to the extent provided by applicable law. Except with respect to voting and conversion, each share of Voting Common Stock and each share of Non-Voting Common Stock shall have identical rights, powers, preferences and limitations. Subject to the rights and preferences of the Preferred Stock, holders of Common Stock are entitled to such dividends as may be declared by the Board of Directors out of funds lawfully available therefor. Upon any liquidation, dissolution or winding up of the affairs of the Corporation, whether voluntary or involuntary, holders of Common Stock are entitled to receive pro rata the remaining assets of the Corporation after the holders of Preferred Stock have been paid in full the sums to which they are entitled.

5. Preemptive Rights. Any holder of the Preferred Class of Stock of this Corporation shall have, as a matter of right, preemptive rights to subscribe for, purchase or receive new shares of the Capital Stock of this Corporation of any kind, class or series or any other securities or obligations of this Corporation, both now and hereafter authorized.

H00000014574

6. Series C Preferred Stock.Section 1. Voting Rights.

(a) Except as otherwise required by law or expressly provided herein, the holders of shares of Series C Voting Preferred Stock shall be entitled to vote on all matters submitted to a vote of the stockholders of the Corporation and shall have such number of votes equal to the number of shares of Voting Common Stock into which such holders' shares of Series C Voting Preferred Stock are convertible pursuant to the provisions hereof at the record date for the determination of stockholders entitled to vote on such matters or, if no such record date is established, at the date such vote is taken or any written consent of stockholders is solicited. Except as otherwise required by law or expressly provided herein, the holders of shares of Series C Voting Preferred Stock and Voting Common Stock shall vote together and not as separate classes.

(b) Except as otherwise required by law, the holders of shares of Series C Non-Voting Preferred Stock shall not be entitled to vote on any matter submitted to a vote of the stockholders of the Corporation.

(c) Any amendment, repeal or modification of any provision of the Articles of Incorporation of the Corporation that adversely affects the powers, preferences or special rights of the Series C Non-Voting Preferred Stock and the Series C Voting Preferred Stock in the same manner must be submitted to a vote of the Series C Non-Voting Preferred Stock and the Series C Voting Preferred Stock considered as a single class (with each share of Series C Preferred Stock having one vote).

(d) Except as expressly provided herein or as required by law, so long as any shares of Series C Preferred Stock remain outstanding, the Corporation shall not, without the vote or written consent by the holders of at least two-thirds of the then outstanding shares of Series C Voting Preferred Stock:

(i) Redeem, repurchase or otherwise acquire for value (or pay into or set aside a sinking fund for such purpose), or agree to redeem, repurchase or otherwise acquire for value any share or shares of the capital stock of the Corporation (except for those shares, if any, repurchased at cost from officers, directors, consultants or employees under agreements requiring such persons to sell such shares to the Corporation upon termination of their relationship with the Corporation or those shares repurchased from stockholders under agreements granting the Corporation a right of first refusal to purchase such shares);

(ii) Authorize or issue any equity security senior to or on a parity with the Series C Preferred Stock as to liquidation preferences, redemption, dividend rights, conversion rights, voting rights or otherwise; or

(iii) Effect any sale, lease, assignment, transfer or other conveyance of all or substantially all of the assets of the Corporation or any subsidiary thereof, or any consolidation, merger or share exchange involving the Corporation (other than a consolidation, merger or share exchange in which the holders of voting securities of the Corporation immediately before the consolidation, merger or share exchange are the holders after the consolidation, merger or share exchange of more than 50% of the voting securities of the surviving or acquiring corporation, or of a parent of such surviving or acquiring corporation), or any reclassification or other change of shares, or any recapitalization or any dissolution, liquidation or winding up of the Corporation; or

H00000014574

H00000014574

(iv) Amend, modify, repeal or add to any provision of its Articles of Incorporation or Bylaws; or

(v) Authorize, declare, pay or set aside any dividend or other distribution with respect to the Common Stock or any equity security junior in right to the Series C Preferred Stock.

Section 2. Dividend Rights. To the extent that any dividends are declared on the Common Stock, the holders of shares of Series C Preferred Stock shall be entitled to share in such dividends on an as-if-converted to Common Stock basis.

Section 3. Liquidation Rights.

(a) In the event of any liquidation of the Corporation, whether voluntary or involuntary (a "Liquidation"), and prior to and in preference to any payments to be made to holders of Series B Preferred Stock, Series A Preferred Stock or Common Stock, each holder of shares of Series C Preferred Stock then outstanding shall be entitled to be paid out of the assets of the Corporation available for distribution to its stockholders, an amount per share of Series C Preferred Stock held by such holder equal to the sum of \$5.00 (such amount to be adjusted proportionately in the event the shares of Series C Preferred Stock are subdivided by any means into a greater number or combined by any means into a lesser number) plus all accrued or declared but unpaid dividends on such share of the Series C Preferred Stock (such sum is referred to herein as the "Series C Liquidation Preference"). If, upon any Liquidation, the assets to be distributed to the holders of the Series C Preferred Stock shall be insufficient to permit the payment to such stockholders of the full Series C Liquidation Preference, then all of the assets of the Corporation to be distributed shall be distributed ratably to the holders of Series C Preferred Stock in proportion to the full Series C Liquidation Preference each such holder is otherwise entitled to receive.

(b) After the distribution described in subsection (a) above has been paid, subject to the rights of series of Preferred Stock which may from time to time come into existence, the remaining assets of the Corporation available for distribution to stockholders shall be distributed among the holders of Series C Preferred Stock and Common Stock pro rata based on the number of shares of Common Stock held by each (assuming full conversion of all such Series C Preferred Stock).

(c) A consolidation or merger of this Corporation with or into any other entity, or a sale, conveyance or disposition of all or substantially all of the assets of the Corporation or the effectuation by the Corporation of a transaction or series of related transactions in which more than 50% of the voting power of the Corporation is disposed of, shall be deemed to be a Liquidation within the meaning of this Section 3.

(d) Nothing contained in this Section 3 shall be deemed to prevent any holder of Series C Preferred Stock from exercising such holder's right of conversion pursuant to Section 5 hereof with respect to any share of Series C Preferred Stock at any time prior to the Liquidation including after the giving of any notice of such Liquidation.

Section 4. Redemption.

(a) Subject to the rights of series of any Preferred Stock which may from time to time come into existence, on or at any time after December 31st, 2004, the Corporation may at any time it may lawfully do so, at the option of the Board of Directors, redeem in whole or in part the Series C Preferred Stock by paying in cash the greater of (i) the sum of \$5.00 per share of Series C Preferred Stock held by such holder (such amount to be adjusted proportionately in the event the shares of Series C Preferred

H00000014574

H00000014574

Stock are subdivided by any means into a greater number or combined by any means into a lesser number) plus all accumulated and accrued or declared but unpaid dividends on such share of the Series C Preferred Stock or (ii) the fair market value of a share of Series C Preferred Stock as determined in good faith by the Board of Directors (such payment amount is hereinafter referred to as the "Series C Redemption Price"). In the event of any redemption of only a part of the then outstanding Series C Preferred Stock, the Corporation shall effect such redemption pro rata according to the number of shares held by each holder thereof. Subject to the rights of series of any Preferred Stock which may from time to time come into existence, at least 30 but no more than 60 days prior to the date fixed for any redemption of Series C Preferred Stock (the "Optional Redemption Date"), written notice shall be mailed, first class postage prepaid, to each holder of record (at the close of business on the business day next preceding the day on which notice is given) of the Series C Preferred Stock to be redeemed, at the address last shown on the records of the Corporation for such holder or given by the holder to the Corporation for the purpose of notice or if no such address appears or is given at the place where the principal executive office of the Corporation is located, notifying such holder of the redemption to be effected, specifying the number of shares to be redeemed from such holder, the Optional Redemption Date, the Series C Redemption Price, the place at which payment may be obtained and the date on which such holder's conversion rights (as hereinafter defined) as to such shares terminate and calling upon such holder to surrender to the Corporation, in the manner and at the place designated, his certificate or certificates representing the shares to be redeemed (the "Redemption Notice"). On or after the Optional Redemption Date, each holder of Series C Preferred Stock to be redeemed shall surrender to the Corporation the certificate or certificates representing such shares, in the manner and at the place designated in the Redemption Notice, and thereupon the Series C Redemption Price of such shares shall be payable to the order of the person whose name appears on such certificate or certificates as the owner thereof and each surrendered certificate shall be cancelled. In the event less than all the shares represented by any such certificate are redeemed, a new certificate shall be issued representing the unredeemed shares.

(b) At any time or times on or after June 30th, 2004, each holder of the outstanding shares of Series C Preferred Stock may elect to require the Corporation to redeem all or any portion of the outstanding shares of Series C Preferred Stock held by such holder by delivering written notice of such request to the Corporation. Within five (5) days after receipt of any such notice, the Corporation shall give written notice of such request by overnight courier (accompanied by a copy of the Corporation's most recent audited and unaudited financial statements) to all holders of shares of Series C Preferred Stock. The Corporation shall be required to redeem all outstanding shares of Series C Preferred Stock with respect to which redemption requests have been made at the Series C Redemption Price within fifty (50) days after receipt of the initial redemption request (the "Mandatory Redemption Date"), subject to the provisions hereinafter set forth. If the funds of the Corporation legally available for the redemption of the Series C Preferred Stock on the Mandatory Redemption Date are insufficient to redeem the total number of shares of Series C Preferred Stock to be redeemed on such date, those funds which are legally available shall be paid to the holders of the Series C Preferred Stock ratably in proportion to the number of shares of Series C Preferred Stock to be redeemed held by each such holder on the Mandatory Redemption Date. At any time thereafter when additional funds of the Corporation are legally available for the redemption of shares of Series C Preferred Stock, such funds shall immediately be used to redeem the balance of the shares of Series C Preferred Stock which the Corporation had become obligated to redeem but had not redeemed, paid to the holders of the shares of Series C Preferred Stock to be redeemed ratably in proportion to the number of shares of Series C Preferred Stock to be redeemed held by each such holder on the date such funds become legally available.

(c) Nothing contained in this Section 4 shall be deemed to prevent any holder of Series C Preferred Stock from exercising such holder's right of conversion pursuant to Section 5 hereof with

H00000014574

H00000014574

respect to any share of Series C Preferred Stock at any time subsequent to the required redemption date thereof and prior to the payment of the redemption price therefore.

Section 5. Conversion.

(a) Conversion Procedure.

- (i) Any holder of shares of Series C Voting Preferred Stock may at any time (including at any time after a date scheduled for the redemption of such shares on which the Corporation defaults in, or is prohibited from making, the payment of the redemption price but before the payment of such redemption price is made) convert all or any number of such shares held by such holder into a number of shares of Voting Common Stock computed by dividing (A) the sum of (1) the number of such shares to be converted multiplied by \$5.00 plus (2) the amount of accumulated and accrued or declared but unpaid dividends on such shares to be converted by (B) the Series C Conversion Price then in effect. Any holder of shares of Series C Non-Voting Preferred Stock may at any time (including at any time after a date scheduled for the redemption of such shares on which the Corporation defaults in, or is prohibited from making, the payment of the redemption price but before the payment of such redemption price is made) convert all or any number of such shares held by such holder into a number of shares of Non-Voting Common Stock computed by dividing (A) the sum of (1) the number of such shares to be converted multiplied by \$5.00 plus (2) the amount of accumulated and accrued but unpaid dividends on such shares to be converted by (B) the Series C Conversion Price then in effect.
- (ii) Each conversion of shares of Series C Preferred Stock will be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of Series C 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 as of such date.
- (iii) As soon as possible after a conversion has been effected (but in any event within three business days), the Corporation will deliver to the converting holder:

(A) a certificate or certificates representing the number of shares of Voting Common Stock or Non-Voting Common Stock, as the case may be, issuable by reason of such conversion in such name or names and such denomination or denominations as the converting holder has specified; and

(B) a certificate representing any shares of Series C Voting Preferred Stock or Series C Non-Voting Preferred Stock, as the case may be, which were represented by the certificate or certificates delivered to the Corporation in connection with such conversion but which were not converted.

(iv) The issuance of certificates for shares of Voting Common Stock or Non-Voting Common Stock, as the case may be, upon conversion of shares of Series C Voting Preferred Stock or Series C Non-Voting Preferred Stock, respectively, will be made without charge to the holders of such shares of Series C Voting Preferred Stock or Series C Non-Voting Preferred Stock for any issuance tax in

H00000014574

respect thereof or other cost incurred by the Corporation in connection with such conversion and the related issuance of shares of Voting Common Stock or Non-Voting Common Stock. Upon conversion of each share of Series C Voting Preferred Stock or Series C Non-Voting Preferred Stock, as the case may be, the Corporation will take all such actions as are necessary in order to insure that the Voting Common Stock or Non-Voting Common Stock issuable with respect to such conversion will be validly issued, fully paid and nonassessable.

(v) The Corporation will not close its books against the transfer of shares of Series C Voting Preferred Stock or Series C Non-Voting Preferred Stock or of Voting Common Stock or Non-Voting Common Stock issued or issuable upon conversion of shares of Series C Voting Preferred Stock or Series C Non-Voting Preferred Stock, respectively, in any manner which interferes with the timely conversion of such shares.

(vi) If any fractional interest in a share of Voting Common Stock or Non-Voting Common Stock would, except for the provisions of this sub-paragraph (vi), be deliverable upon any conversion of shares of Series C Voting Preferred Stock or Series C Non-Voting Preferred Stock, respectively, the Corporation, in lieu of delivering the fractional share therefor, will pay an amount to the holder thereof equal to the Market Price of such fractional interest as of the date of conversion.

(b) Series C Conversion Price.

(i) The initial Series C Conversion Price for the Series C Preferred Stock will be \$5.00. In order to prevent dilution of the conversion rights granted under this Section 5, the Series C Conversion Price will be subject to adjustment from time to time pursuant to this Section 5.

(ii) If and whenever on or after the original date of issuance of shares of Series C Preferred Stock, the Corporation issues or sells, or in accordance with Section 5(c) is deemed to have issued or sold, any share of its Common Stock for a consideration per share less than the Series C Conversion Price in effect ("Additional Stock") then forthwith upon such issuance or sale, or deemed issuance or sale, the Series C Conversion Price in effect immediately prior to each such issuance shall forthwith be adjusted to a price determined by multiplying such Series C Conversion Price by a fraction, the numerator of which shall be the number of shares of Common Stock outstanding immediately prior to such issuance (including all shares of outstanding Preferred Stock on an as-converted basis, but not including shares excluded by subsection (x) below), plus the number of shares of Common Stock which the aggregate consideration received by the corporation for such issuance of the Additional Stock would purchase at such Series C Conversion Price; and the denominator of which shall be the number of shares of Common Stock outstanding immediately prior to such issuance (including all shares of outstanding Preferred Stock on an as-converted basis, but not including shares excluded by subsection (x) below), plus the number of shares of such Additional Stock to be issued or sold or deemed issued or sold.

(c) Effect on Series C Conversion Price of Certain Events. For purposes of determining the adjustment to be made to the Series C Conversion Price under Section 5(b), the following will be applicable:

H00000014574

(i) Issuance of Rights or Options. If the Corporation in any manner grants any rights or options to subscribe for or to purchase Common Stock or any stock or other securities convertible into or exchangeable for Common Stock (such rights or options being herein called "Options" and such convertible or exchangeable stock or securities being herein called "Convertible Securities") and the price per share for which Common Stock is issuable upon the exercise of such Options or upon conversion or exchange of such Convertible Securities is less than the Series C Conversion Price in effect immediately prior to the time of the granting of such Options, then the total maximum number of shares of Common Stock issuable upon the exercise of such Options or upon conversion or exchange of such Convertible Securities will be deemed to be outstanding and to have been issued and sold by the Corporation for such price per share. For purposes of this paragraph, the "price per share for which Common Stock is issuable" will be determined by dividing (A) the total amount, if any, received or receivable by the Corporation as consideration for the granting of such Options, plus the minimum aggregate amount of additional consideration payable to the Corporation upon exercise of all such Options, plus in the case of such Options which relate to Convertible Securities, the minimum aggregate amount of additional consideration, if any, payable to the Corporation upon the issuance or sale of such Convertible Securities and the conversion or exchange thereof by (B) the total maximum number of shares of Common Stock issuable upon the exercise of all such Options or upon the conversion or exchange of all such Convertible Securities issuable upon the exercise of such Options. No further adjustment of the Series C Conversion Price will be made when Convertible Securities are actually issued upon the exercise of such Options or when Common Stock is actually issued upon the exercise of such Options or the conversion or exchange of such Convertible Securities.

(ii) Issuance of Convertible Securities. If the Corporation in any manner issues or sells any Convertible Securities and the price per share for which Common Stock is issuable upon such conversion or exchange is less than the Series C Conversion Price in effect immediately prior to the time of such issue or sale, then the maximum number of shares of Common Stock issuable upon conversion or exchange of such Convertible Securities will be deemed to be outstanding and to have been issued and sold by the Corporation for such price per share. For the purposes of this paragraph, the "price per share for which Common Stock is issuable" will be determined by dividing (A) the total amount received or receivable by the Corporation as consideration for the issue or sale of such Convertible Securities, plus the minimum aggregate amount of additional consideration, if any, payable to the Corporation upon the conversion or exchange thereof by (B) the total maximum number of shares of Common Stock issuable upon the conversion or exchange of all such Convertible Securities. No further adjustment of the Series C Conversion Price will be made when Common Stock is actually issued upon the conversion or exchange of such Convertible Securities, and if any such issue or sale of such Convertible Securities is made upon exercise of any Options for which adjustments of the Series C Conversion Price had been or are to be made pursuant to other provisions of this Section 5, no further adjustment of the Series C Conversion Price will be made by reason of such issue or sale.

(iii) Change in Option Price or Conversion Rate. If the purchase price provided for in any Options, the additional consideration, if any, payable upon the conversion or exchange of any Convertible Securities, or the rate at which any Convertible Securities are convertible into or exchangeable for Common Stock change at any time (other than solely through the operation of anti-dilution provisions similar to those contained herein), the Series C Conversion Price in effect at the time of such change will be readjusted to the Series C Conversion Price which would have been in effect at such time had such Options or Convertible Securities still outstanding provided for such changed purchase price, additional consideration or changed conversion rate, as the case may be, at the time initially granted, issued or sold.

(iv) Treatment of Expired Options and Unexercised Convertible Securities. Upon the expiration of any Option or the termination of any right to convert or exchange any Convertible

H00000014574

H00000014574

Security without the exercise of any such Option or right, the Series C Conversion Price then in effect hereunder will be adjusted to the Series C Conversion Price which would have been in effect at the time of such expiration or termination had such Option or Convertible Security, to the extent outstanding immediately prior to such expiration or termination, never been issued. No adjustment made pursuant to this paragraph shall have the effect of increasing the Series C Conversion Price by an amount in excess of the amount of the adjustment made in respect of the issuance of such Options or Convertible Securities.

(v) Calculation of Consideration Received. If any Common Stock, Option or Convertible Security is issued or sold or deemed to have been issued or sold for cash, the consideration received therefor will be deemed to be the amount received by the Corporation therefor (net of any issuance expenses, discounts and commissions). In case any Common Stock, Options or Convertible Securities are issued or sold for a consideration other than cash, the amount of the consideration other than cash received by the Corporation will be the fair value of such consideration, except where such consideration consists of securities, in which case the amount of consideration received by the Corporation will be the Market Price thereof as of the date of receipt. If any Common Stock, Option or Convertible Security is issued in connection with any merger in which the Corporation is the surviving corporation, the amount of consideration therefor will be deemed to be the fair value of such portion of the net assets and business of the non-surviving corporation as is attributable to such Common Stock, Options or Convertible Securities, as the case may be. The fair value of any consideration other than cash and securities will be reasonably determined in good faith by the Board.

(vi) Integrated Transactions. In case any Option is issued in connection with the issue or sale of other securities of the Corporation, together comprising one integrated transaction in which no specific consideration is allocated to such Option by the parties thereto, the Option will be deemed to have been issued without consideration.

(vii) Treasury Shares. The number of shares of Common Stock outstanding at any given time does not include shares owned or held by or for the account of the Corporation or any subsidiary, and the disposition of any shares so owned or held will be considered an issue or sale of Common Stock.

(viii) Record Date. If the Corporation takes a record of the holders of Common Stock for the purpose of entitling them (A) to receive a dividend or other distribution payable in Common Stock, Options or Convertible Securities or (B) to subscribe for or purchase Common Stock, Options or Convertible Securities, then for purposes of this Section 5 such record date will be deemed to be the date of the issue or sale of the shares of Common Stock deemed to have been issued or sold upon the declaration of such dividend or upon the making of such other distribution or the date of the granting of such right of subscription or purchase, as the case may be.

(ix) Certain Events. If any event occurs of the type contemplated by the provisions of this Section 5 but not expressly provided for by such provisions (including, but not limited to, the granting of stock or capital appreciation rights, phantom stock rights or other rights with equity features), then the Board shall make an appropriate adjustment in the Series C Conversion Price so as to protect the rights of the holders of Series C Preferred Stock; provided that no such adjustment shall increase the Series C Conversion Price as otherwise determined pursuant to this Section 5 or decrease the number of shares of Common Stock issuable upon conversion of each share of Series C Preferred Stock.

(x) Certain Exceptions. Anything herein to the contrary notwithstanding, no adjustment will be made to the Series C Conversion Price by reason of the issuance of (i) options granted and to be granted, and shares of Common Stock issuable upon exercise of such options, pursuant to the

H00000014574

Stock Option Plan and (ii) the issuance of shares of Common Stock upon a subdivision of the Common Stock for which an adjustment to the Series C Conversion Price is made pursuant to Section 5(d).

(d) Subdivision or Combination of Common Stock. If the Corporation at any time subdivides (by any stock split, stock dividend, recapitalization or otherwise) one or more classes of its outstanding shares of Common Stock into a greater number of shares, the Series C Conversion Price in effect immediately prior to such subdivision will be proportionately reduced, and if the Corporation at any time combines (by reverse stock split or otherwise) one or more classes of its outstanding shares of Common Stock into a smaller number of shares, the Series C Conversion Price in effect immediately prior to such combination will be proportionately increased.

(e) Reorganization, Reclassification, Consolidation, Merger or Sale. Any capital reorganization, reclassification, consolidation, merger or sale of all or substantially all of the Corporation's assets to another person or entity which is effected in such a way that holders of Common Stock are entitled to receive (either directly or upon subsequent liquidation) stock, securities or assets with respect to or in exchange for Common Stock is referred to herein as an "Organic Change". Prior to the consummation of any Organic Change, the Corporation will make appropriate provisions to insure that each of the holders of Series C Preferred Stock will thereafter have the right to acquire and receive, in lieu of or in addition to the shares of Common Stock immediately theretofore acquirable and receivable upon the conversion of such holder's shares of Series C Preferred Stock, such shares of stock, securities or assets as such holder would have received in connection with such Organic Change if such holder had converted his Series C Preferred Stock immediately prior to such Organic Change. In any such case, the Corporation will make appropriate provisions to insure that the provisions of this Section 5 will thereafter be applicable to the Series C Preferred Stock (including, in the case of any such consolidation, merger or sale in which the successor corporation or purchasing corporation is other than the Corporation, an immediate adjustment of the Series C Conversion Price to the value for the Common Stock reflected by the terms of such consolidation, merger or sale, and a corresponding immediate adjustment in the number of shares of Common Stock acquirable and receivable upon conversion of shares of Series C Preferred Stock, if the value so reflected is less than the Series C Conversion Price in effect immediately prior to such consolidation, merger or sale). The Corporation will not effect any such consolidation, merger or sale, unless prior to the consummation thereof, the successor corporation (if other than the Corporation) resulting from consolidation or merger or the corporation purchasing such assets assumes by written instrument, the obligation to deliver to each such holder such shares of stock, securities or assets as, in accordance with the foregoing provisions, such holder may be entitled to acquire.

(f) Notices.

(i) Immediately upon any adjustment of the Series C Conversion Price, the Corporation will give written notice thereof to all holders of shares of Series C Preferred Stock.

(ii) The Corporation will give written notice to all holders of shares of Series C Preferred Stock at least 20 days prior to the date on which the Corporation closes its books or takes a record (A) with respect to any dividend or distribution upon Common Stock, (B) with respect to any pro rata subscription offer to holders of Common Stock or (C) for determining rights to vote with respect to any Organic Change or Liquidation.

(iii) The Corporation will also give written notice to the holders of shares of Series C Preferred Stock at least 20 days prior to the date on which any Organic Change or Liquidation will take place.

H00000014574

(g) Reservation of Common Stock. 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 Series C Preferred Stock, such number of its shares of Common Stock (both Voting Common Stock and Non-Voting Common Stock) as shall from time to time be sufficient to effect the conversion of all outstanding shares of Series C 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 Series C Preferred Stock, the Corporation will take such corporate action as may be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purpose.

(h) Taxes and Charges. The Corporation will pay all taxes and other governmental charges that may be imposed in respect of the issue or delivery of shares of Common Stock upon conversion of shares of Series C Preferred Stock.

(i) Rounding. All calculations under this Section 5 shall be made to the nearest cent or to the nearest one-tenth of a share, as the case may be.

(j) Protection of Conversion Rights. The Corporation shall not amend its Articles of Incorporation or participate in any reorganization, transfer of assets, consolidation, merger, dissolution, issuance or sale of securities or any other voluntary action, for the purpose of avoiding or seeking to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Corporation, but will at all times in good faith assist in the carrying out of all the provisions of this Section 5 and will take all actions that may be necessary or appropriate in order to protect against impairment the rights of the holders of shares of Series C Preferred Stock to convert such shares.

(k) Automatic Conversion. Each share of Series C Voting Preferred Stock shall automatically be converted into shares of Voting Common Stock and each share of Series C Non-Voting Preferred Stock shall automatically be converted into shares of Non-Voting Common Stock without any further action by the holders of such shares and whether or not the certificates representing such shares are surrendered to the Corporation or its transfer agent at the Series C Conversion Price at the time in effect for such Series C Preferred Stock immediately upon the consummation of the Corporation's sale of its Common Stock in a bona fide, firm commitment underwriting pursuant to a registration statement under the Securities Act of 1933, as amended, the public offering price of which was not less than \$5.00 per share (adjusted to reflect subsequent stock dividends, stock splits or recapitalization) and \$10,000,000.00 in the aggregate. The Corporation, however, shall not be obligated to issue certificates evidencing the shares of Common Stock issuable upon such conversion unless certificates evidencing such shares of the Series C Preferred Stock being converted are either delivered to the Corporation or any transfer agent. Upon the automatic conversion of the Series C Preferred Stock, the holder of such Series C Preferred Stock shall surrender the certificates representing such shares at the office of the Corporation or of any transfer agent for the Common Stock. Thereupon, there shall be issued and delivered to such holder, promptly at such office and in his name as shown on such surrendered certificate or certificates, a certificate or certificates for the number of shares of Common Stock into which the shares of the Series C Preferred Stock surrendered were convertible on the date on which such automatic conversion occurred.

(l) Conversion of Series C Non-Voting Preferred Stock and Series C Voting Preferred Stock.

(i) Upon compliance with the provisions of Section 5(l)(iii) below, any Regulated Stockholder shall be entitled to convert, at any time and from time to time, any and all of the shares of Series C Voting Preferred Stock held by such Regulated Stockholder into the same number of shares of Series C Non-Voting Preferred Stock.

H00000014574

The Corporation shall not convert or directly or indirectly purchase or otherwise acquire any shares of Series C Voting Preferred 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 voting securities of any class or series (including the Series C Voting Preferred 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 Section 5(l)(i)) unless the Corporation gives written notice (the "Series C Preferred Stock First Notice") of such action to each Regulated Stockholder. The Corporation will defer making any conversion, purchase or other acquisition or taking any such other action for a period of 30 days (the "Series C Preferred Stock Deferral Period") after giving the Series C Preferred Stock 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 Series C Voting Preferred Stock it owns, controls or has the power to vote, and if any such Regulated Stockholder then elects to convert any shares of the Series C Voting Preferred Stock, it shall notify the Corporation in writing within 20 days of the issuance of the Series C Preferred Stock First Notice, in which case the Corporation (x) shall promptly notify from time to time each other Regulated Stockholder holding shares of each proposed conversion and the proposed transactions, and (y) effect the conversion requested by all Regulated Stockholders in response to the notices issued pursuant to this Section 5(l)(i) at the end of the Series C Preferred Stock Deferral Period or as soon thereafter as is reasonably practicable. Notwithstanding anything to the contrary contained in the Articles of Incorporation of the Corporation, the Corporation will not directly or indirectly redeem, purchase, acquire or take any other action affecting outstanding Series C Voting Preferred Stock if such action will increase above 24.9% the percentage of outstanding Series C Preferred Stock owned by or controlled by any Regulated Stockholder and its Affiliates (other than a stockholder which waives in writing its rights under this Section 5(l)(i)).

(ii) Upon compliance with the provisions of Section 5(l)(iii) below, any holder of shares of Series C Non-Voting Preferred Stock shall be entitled to convert, at any time and from time to time, any and all shares of Series C Non-Voting Preferred Stock held by such holder into the same number of shares of Series C Voting Preferred Stock; provided, however, that no holder of any shares of Series C Non-Voting Preferred Stock shall be entitled to convert any such shares into shares of Series C Voting Preferred 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 Series C Voting Preferred 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; provided, further, that the Corporation shall be entitled to rely without independent verification upon the representation of any holder that the conversion of shares by such holder is permitted under applicable law, and in no event shall the Corporation be liable to any such holder or any third party arising from any such conversion whether or not permitted by applicable law.

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 Series C Voting Preferred Stock or Series C Non-Voting Preferred 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 Series C Voting Preferred Stock (other than a change in par value, or from par value to no par value as a 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

H00000014574

H00000014574

of Series C Voting Preferred Stock or Series C Non-Voting Preferred 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 Series C Voting Preferred Stock or Series C Non-Voting Preferred Stock shall have the right at any time thereafter, so long as the conversion right hereunder with respect to such share of Series C Voting Preferred Stock or Series C Non-Voting Preferred 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 Common Stock into which such shares of Series C Voting Preferred Stock or Series C Non-Voting Preferred Stock 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 Series C Voting Preferred Stock or Series C Non-Voting Preferred 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 Series C Voting Preferred Stock or Series C Non-Voting Preferred Stock into which such shares of Series C Preferred 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 Series C Preferred Stock would be required to take (x) any voting securities, the voting provisions or which would cause such holder to violate any law, regulation or other requirement of any governmental body 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 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) Manner of Effecting Conversion. To convert Series C Voting Preferred Stock or Series C Non-Voting Preferred Stock into Series C Non-Voting Preferred Stock or Series C Voting Preferred Stock, as the case may be, a holder must: (w) complete and sign a conversion notice on the back of the certificate representing Series C Preferred Stock or deliver written notice to the Corporation (or, if a conversion agent has been designated by the Corporation, to such agent (the "Series C Preferred Stock Conversion Agent")); (x) surrender the Series C Preferred Stock certificate to the Series C Preferred Stock Conversion Agent, in a written notice, or if no Series C Preferred Stock Conversion Agent is so designated, to the Corporation; (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 Series C Preferred 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 Section 5(l)(iv). Except in the case of a conversion subject to the second paragraph of Section 5(l)(i) hereof, the date on which the holder of Series C Preferred 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 Section 5(l)(i) hereof, the conversion shall be deemed effective upon expiration of the Series C Preferred Stock 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, itself or through the Series C Preferred Stock Conversion Agent, a certificate for the number of shares of Series C Preferred Stock issuable upon the conversion, calculated in accordance with Section 5(l)(i) or 5(l)(ii), as the case may be. 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 Series C Preferred Stock certificate are

H00000014574

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

(iv) Transfer Taxes, Etc. If a holder converts shares of Series C Preferred Stock, the Corporation shall pay any documentary, stamp or similar issue or transfer tax due on the issue of shares of Series C Non-Voting Preferred Stock or Series C Voting Preferred 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) Issuance of Shares. The Corporation shall reserve out of its authorized but unissued Series C Preferred Stock and its Series C Preferred Stock held in treasury sufficient shares of Series C Preferred Stock to permit the conversions of all Series C Preferred Stock pursuant to Subsection 5(l)(i) or 5(l)(ii). All shares of Series C Preferred Stock issued upon such conversion shall be fully paid and non-assessable.

Shares of Series C Voting Preferred Stock and Series C Non-Voting Preferred Stock that are converted into shares of the other class shall not be reissued, except for reissuance in connection with the conversion of shares of Series C Voting Preferred Stock or Series C Non-Voting Preferred Stock held by Regulated Stockholders into shares of Series C Non-Voting Preferred Stock or Series C Voting Preferred Stock, respectively.

Section 6. Cancellation of Series C Preferred Stock. Except as provided in the last paragraph of Section 5(l), no share or shares of Series C Preferred Stock acquired by the Corporation by reason of redemption, conversion or otherwise shall be reissued, and all such shares (other than shares to the extent required for reissuance upon any conversion under Section 5(l)) shall be cancelled, retired and eliminated from the shares which the Corporation shall be authorized to issue.

Section 7. Miscellaneous.

(a) Notices. Except as otherwise expressly provided hereunder, all notices shall be in writing and shall be delivered personally or by registered or certified mail, return receipt requested and postage prepaid, or by overnight courier services, charges prepaid, and shall be deemed to have been given when personally delivered, one (1) business day after the same is delivered to such an overnight courier service, charges prepaid, or three (3) business days after the same has been so deposited in the United States mail, certified or registered mail, return receipt requested, postage prepaid, and addressed (i) to the Corporation, at its principal executive offices and (ii) to any holder of Series C Preferred Stock, at such holder's address as it appears in the stock records of the Corporation (unless otherwise indicated by any such holder).

(b) Registration of Transfer. The Corporation shall keep at its principal office a register for the registration of Series C Preferred Stock. Upon the surrender of any certificate representing Series C Preferred Stock at such place, the Corporation shall, at the request of the record holder of such certificate, execute and deliver (at the Corporation's expense) a new certificate or certificates in exchange therefor representing in the aggregate the number of shares of Series C Preferred Stock represented by the surrendered certificate. Each such new certificate shall be registered in such name and shall represent such number of shares of Series C Preferred Stock as is requested by the holder of the surrendered certificate and shall be substantially identical in form to the surrendered certificate.

(c) Replacement of Certificates. Upon receipt of evidence reasonably satisfactory to the Corporation (an affidavit of the registered holder shall be satisfactory) of the ownership and the loss, theft, destruction or mutilation of any certificate evidencing shares of Series C Preferred Stock, and, in

H00000014574

the case of any such loss, theft or destruction, upon receipt of indemnity reasonably satisfactory to the Corporation (provided that if the holder is a financial institution or other institutional investor its own agreement shall be satisfactory), or, in the case of any such mutilation upon surrender of such certificate, the Corporation shall (at its expense) execute and deliver in lieu of such certificate a new certificate of like kind representing the number of shares of Series C Preferred Stock represented by such lost, stolen, destroyed or mutilated certificate.

7. Additional Rights.

Section 1. Events of Noncompliance. An Event of Noncompliance shall be deemed to have occurred:

(i) If the Corporation fails to make any redemption payment with respect to the Series C Preferred Stock that it is obligated to make hereunder and such failure continues for a period of ten (10) days after the Corporation receives notice of the occurrence thereof (whether or not funds of the Corporation are legally available for such payment);

(ii) If the Corporation makes an assignment for the benefit of creditors or admits in writing its inability to pay its debts generally as they become due; or an order, judgment or decree is entered adjudicating the Corporation bankrupt or insolvent; or any order for relief with respect to the Corporation is entered under the United States Bankruptcy Code; or the Corporation petitions or applies to any tribunal for the appointment of a custodian, trustee, receiver or liquidator of the Corporation, or of any substantial part of the assets of the Corporation, or commences any proceeding relating to the Corporation under any bankruptcy organization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction; or any such petition or application is filed, or any such proceeding is commenced, against the Corporation and either (x) the Corporation by any act indicates its approval thereof, consent thereto or acquiescence therein or (y) such petition, application or proceeding is not dismissed within sixty (60) days;

(iii) If the Corporation defaults in the performance of any obligation or agreement if the effect of such default is to cause an amount exceeding \$100,000 to become due prior to its stated maturity or if the Corporation defaults in the payment of an amount exceeding \$100,000 when such amount is due (whether at stated maturity, by acceleration or otherwise) and any such default remains uncured for a period of 30 days; or

(iv) If any money judgment, writ or warrant of attachment, or similar process involving an amount in any individual case in excess of \$100,000 is entered or filed against the Corporation or any of the Corporation's assets and remains discharged, unvacated, unbonded or unstayed for a period of 30 days.

Section 2. Consequences of Event of Noncompliance. If an Event of Noncompliance has occurred, the holder or holders of at least 66-2/3% of the shares of the Series C Preferred Stock then outstanding may demand (by written notice delivered to the Corporation) immediate redemption of all of such shares of Series C Preferred Stock at a price per share equal to the Series C Redemption Price. The Corporation shall give prompt written notice of such election to the other holders of such shares of Series C Preferred Stock (but in any event within five days after receipt of the initial demand for redemption of the Series C Preferred Stock). The Corporation shall redeem the Series C Preferred Stock within 30 days after receipt of the demand for redemption.

Section 3. Suits for Enforcement. After any Event of Noncompliance specified in Section 1 above has occurred, any holder of Series C Preferred Stock may proceed to protect and enforce such

H00000014574

H00000014574

holder's rights either by suit in equity or by action at law, or both, whether for the specific performance of any covenant or agreement contained in the Corporation's Articles of Incorporation, or the Corporation's By-Laws, or in aid of the exercise of any power granted in the Corporation's Articles of Incorporation or the Corporation's By-Laws, or to enforce exercise of any power granted in the Corporation's Articles of Incorporation, or the Corporation's By-Laws, or to enforce any other legal or equitable right or remedy of such holder.

Section 4. Delays or Omissions. No failure to exercise or delay in the exercise of any right, power or remedy accruing to any holder of Series C Preferred Stock upon any Event of Noncompliance hereunder or other breach or default of the Corporation under the Articles of Incorporation of the Corporation, or the Corporation's By-Laws, shall impair such right, power or remedy of such holder or shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of or in any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring.

Section 5. Remedies Cumulative. All remedies, under either the Articles of Incorporation of the Corporation, or the Corporation's By-Laws, or by law or otherwise afforded to any holder of Series C Preferred Stock shall be cumulative and not alternative.

ARTICLE VI

Board of Directors

1. The number of members of the Board of Directors may be increased or diminished from time to time by the Bylaws; provided, however, there shall never be less than one. Each director shall serve until the next annual meeting of shareholders.
2. If any vacancy occurs in the Board of Directors during a term, the remaining directors, by affirmative vote of a majority thereof, may elect a director to fill the vacancy until the next annual meeting of shareholders.
3. The names and mailing addresses of the current directors of the Corporation are as follows:

Tim Paterson-Brown	200 First Avenue West, Suite 505 Seattle, Washington 98119
Willy Paterson-Brown	200 First Avenue West, Suite 505 Seattle, Washington 98119
David Popejoy	200 First Avenue West, Suite 505 Seattle, Washington 98119

ARTICLE VII

Amendment

The Corporation reserves the right to amend, alter, change or repeal any provision contained in these Amended and Restated Articles of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon shareholders herein are granted subject to this reservation.

H00000014574

ARTICLE VIII**Bylaws**

The power to adopt, amend or repeal bylaws for the management of this Corporation shall be vested in the Board of Directors or the shareholders, but the Board of Directors may not amend or repeal any bylaw adopted by the shareholders if the shareholders specifically provide that such bylaw is not subject to amendment or repeal by the Board of Directors.

ARTICLE IX**Limitation of Director Liability and
Directors, Officers, Employees and Agents Indemnification**

(a) **Liability.** A director of the Corporation shall not be personally liable to the Corporation or its shareholders for monetary damages for breach of fiduciary duty as a director except for liability (i) for any breach of the director's duty of loyalty to the Corporation or its shareholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 607.0831 of FBCA, or (iv) for any transaction from which the director derived an improper personal benefit. If the FBCA is amended after the effective date of this article to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the corporation shall be eliminated or limited to the fullest extent permitted by the FBCA, as so amended.

(b) **Indemnification.** The Corporation shall indemnify, in the manner and to the full extent permitted by law, any person (or the estate of any person) who was or is a party to, or is threatened to be made a party to any threatened, pending or complete action, suit or proceeding, whether or not by or in the right of the Corporation, and whether civil, criminal, administrative, investigative or otherwise, by reason of the fact that such person is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise. The Corporation may, to the full extent permitted by law, purchase and maintain insurance on behalf of any such person against any liability which may be asserted against him or her. To the full extent permitted by law, the indemnification provided herein shall include expenses (including attorneys' fees), judgments, fines and amounts paid in settlement, and, in the manner provided by law, any such expenses may be paid by the Corporation in advance of the final disposition of such action, suit or proceeding. The indemnification provided herein shall not be deemed to limit the right of the Corporation to indemnify any other person for any such expenses to the full extent permitted by law, nor shall it be deemed exclusive of any other rights to which any person seeking indemnification from the Corporation may be entitled under any agreement, vote of shareholders or disinterested directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office.

H00000014574

ARTICLE XShareholder Actions By Consent

Any action that may be taken at a meeting of the Corporation's shareholders may be taken by written consent by the shareholders holding of record or otherwise entitled to vote in the aggregate not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote on the action were present and voted. If action is taken by less than unanimous consent, the Corporation shall give nonconsenting shareholders prior notice of such action. Such notice shall include the resolution approved by the shareholders by written consent and shall be hand delivered or sent first-class mail to each nonconsenting shareholder at the address on the books and records of the Corporation. Unless the written consent specifies a different effective date, the action is effective when consents sufficient to authorize the action have been delivered to the Corporation.

Dated: 3-31- 2000

PURELY COTTON, INC.,
a Florida corporation

By: WLB
Willy Paterson-Brown, Secretary