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103 N. MERIDIAN STREET, LOWER LEVEL  
TALLAHASSEE, FL 32301  
222-1173

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00 OCT 17 PM 2:34

SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

FILING COVER SHEET  
ACCT. #FCA-14

CONTACT: CINDY HICKS

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DATE:

0174

REF. #:

0174.13415

CORP. NAME:

CLEARACCESS COMMUNICATIONS, INC

( ) ARTICLES OF INCORPORATION

☒ ARTICLES OF AMENDMENT

( ) ARTICLES OF DISSOLUTION

( ) ANNUAL REPORT

( ) TRADEMARK/SERVICE MARK

( ) FICTITIOUS NAME

( ) FOREIGN QUALIFICATION

( ) LIMITED PARTNERSHIP

( ) LIMITED LIABILITY

( ) REINSTATEMENT

( ) MERGER

( ) WITHDRAWAL

( ) CERTIFICATE OF CANCELLATION ( ) UCC-1

( ) UCC-3

( ) OTHER:

STATE FEES PREPAID WITH CHECK# \_\_\_\_\_ FOR \$ 43.75

AUTHORIZATION FOR ACCOUNT IF TO BE DEBITED:

COST LIMIT: \$ \_\_\_\_\_

PLEASE RETURN:

☒ CERTIFIED COPY

( ) CERTIFICATE OF GOOD STANDING

( ) PLAIN STAMPED COPY

( ) CERTIFICATE OF STATUS

Examiner's Initials

RECEIVED  
00 OCT 17 AM 11:43  
DIVISION OF CORPORATION  
G. COULLETTE OCT 17 2000

AMENDED AND RESTATED  
ARTICLES OF INCORPORATION  
OF  
CLEARACCESS COMMUNICATIONS, INC.

Pursuant to Section 607 of the Florida Business Corporation Act and pursuant to the Articles of Incorporation of the Corporation, all of the Shareholders and all of the Directors of CLEARACCESS COMMUNICATIONS, INC., a Florida corporation, (the "Corporation"), did authorize on September 20, 2000, to amend and restate said Articles of Incorporation in their entirety as follows:

ARTICLE I - NAME

The name of this Corporation is:

CLEARACCESS COMMUNICATIONS, INC.

ARTICLE II - TERM OF EXISTENCE

The Corporation is to exist perpetually.

ARTICLE III - PURPOSES

The purposes of the Corporation are to engage in any activity or business permitted under the laws of the United States and the State of Florida.

ARTICLE IV - CAPITAL STOCK

The shares of stock of this Corporation shall consist of two (2) classes. The maximum number of shares of stock which this Corporation shall be authorized to issue and have outstanding at any one time is:

<u>Class</u>	<u>Series</u>	<u>Number of Shares</u>	<u>Par Value</u>
Common	Voting	10,574,298	\$.001
Series A Convertible Preferred	Voting	4,574,298	\$.001

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TALLAHASSEE, FLORIDA

With regard to the Series A Convertible Preferred Stock, the designation and number of shares thereof and the voting and other powers, preferences and relative, participating, optional or other rights of the shares of such Series A Convertible Preferred Stock and the qualifications, limitations and restrictions thereof are fully set forth in the Certificate of Designation of this Corporation attached hereto and made a part hereof.

#### ARTICLE V - PRINCIPAL OFFICE

The principal place of business and mailing address of this Corporation shall be 1401 Manatee Avenue West, Suite 500, Bradenton, Florida 34205.

#### ARTICLE VI - REGISTERED AGENT AND ADDRESS

The street address of the registered office of this Corporation is 1401 Manatee Avenue West, Suite 500, Bradenton, Florida 34205 and the registered agent at such office is William Ramalho.

#### ARTICLE VII - DIRECTORS

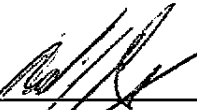
This Corporation shall have five (5) initial Directors.

#### ARTICLE VIII - AMENDMENT

Subject to the restrictions in the Certificate of Designation, these Articles of Incorporation may be amended in certain instances by the Board of Directors as provided by statute and in certain instances by resolutions adopted by the Board of Directors, proposed to them by the Shareholders and approved at a Shareholders Meeting by a majority of the stock entitled to vote thereon.


IN WITNESS WHEREOF, for the purpose of amending and restating the Articles of Incorporation under the provisions of Chapter 607 of the Florida Statutes, the undersigned the President of this Corporation, has executed these Amended and Restated Articles of Incorporation on this 20th day of September, 2000.

CLEARACCESS COMMUNICATIONS, INC.

By \_\_\_\_\_  
William Ramalho, President

Having been named as Registered Agent and to accept service of process for CLEARACCESS COMMUNICATIONS, INC. at the place designated in the Articles, I hereby accept the appointment as Registered Agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relating to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as Registered Agent.

10-16-00  
Date

\_\_\_\_\_  
William Ramalho,  
Registered Agent

CERTIFICATE OF DESIGNATION  
of  
SERIES A CONVERTIBLE PREFERRED STOCK  
of  
CLEARACCESS COMMUNICATIONS, INC.

CLEARACCESS COMMUNICATIONS, INC., Florida corporation (the "Corporation") hereby certifies:

That pursuant to the authority vested in the Board of Directors of the Corporation in its Articles of Incorporation (the "Articles of Incorporation"), the Board of Directors on June 19, 2000, adopted the following resolution creating a series of a minimum of 2,000,000 shares of Preferred Stock designated as "Series A Convertible Preferred Stock."

RESOLVED, that pursuant to the authority vested in the Board of Directors of this Corporation in accordance with its Articles of Incorporation, a Series A of Preferred Stock, par value \$.001 per share, of the Corporation is hereby created. The designation and number of shares thereof and the voting and other powers, preferences and relative, participating, optional or other rights of the shares of such series and the qualifications, limitations and restrictions thereof are as follows:

**Series A Convertible Preferred Stock**

1. Number of Shares. The series of Preferred Stock designated and known as "Series A Convertible Preferred Stock" shall consist of a minimum of 2,000,000 shares.

2. Voting.

2A. General. Except as otherwise provided in these terms, the Series A Convertible Preferred Stock shall vote together with all other classes and series of stock of the Corporation as a single class on all actions to be taken by the stockholders of the Corporation, including, but not limited to actions amending the Articles of Incorporation of the Corporation to increase the number of authorized shares of Common Stock. Each share of Series A Convertible Preferred Stock shall entitle the holder thereof to such number of votes per share on each such action equal to the number of shares of Common Stock (including fractions of a share) into which each share of Series A Convertible Preferred Stock is then convertible.

2B. Board Size. So long as no less than 500,000 shares of Series A Convertible Preferred Stock are outstanding, then the Corporation shall not, without the written consent or affirmative vote of the holders of a majority of the then outstanding shares of Series A Convertible Preferred Stock, given in writing or by vote at a meeting, consenting or voting separately as a series, increase the number of directors on the Board of Directors to more than five.

2C. Board Seats and Attendance at Board Meetings. So long as no less than 500,000 shares of Series A Convertible Preferred Stock are outstanding, the holders of a majority of the then outstanding Series A Convertible Preferred Stock voting as a separate series, shall be entitled to elect two directors of the Corporation. The holders of a majority of then outstanding Common Stock, voting as a separate series, shall be entitled to elect two directors of the Corporation. The holders of a majority of the Series A Convertible Preferred Stock, and the holders of a majority of the then outstanding Common Stock, voting together as a single class, shall be entitled to elect the remaining director, who shall at all times be independent of the principal holders of the Common Stock. The holders of a majority of the Series A Convertible Preferred Stock shall be entitled to have an observer attend Board meetings.

3. Dividends. The Corporation shall not declare or pay any dividends or other Distributions (as defined below), except pursuant to paragraph 4 or 7 hereof, on shares of Common Stock unless such dividend or other distribution (at the same rate) is paid first to the holders of the Series A Convertible Preferred Stock pro rata in proportion to the number of shares of Common Stock outstanding on the record date and the number of shares of Common Stock that would then be issuable to the holders of the Series A Convertible Preferred Stock upon conversion thereof. "Distribution" shall mean the transfer of cash or property without consideration (or as compensation for services) by way of dividend or otherwise but excluding: (a) transfer(s) payable in Common Stock or other securities of the Corporation, (b) the purchase or redemption of shares of the Corporation (except for repurchases of Common Stock held by employees or directors of, or consultants to, the Corporation at a price equal to the original issue price of such shares), and (c) redemptions in liquidation, dissolution or winding up of the Corporation or pursuant to paragraph 7 hereof for cash or property, including any such transfer, purchase or redemption by a subsidiary of this Corporation.

4. Liquidation. Upon any liquidation, dissolution or winding up of the Corporation, voluntary or involuntary (collectively "Liquidation"), and before any payment is made on any stock ranking junior to the Series A Convertible Preferred Stock, the holders of Series A Convertible Preferred Stock shall be entitled to be paid an amount equal to the greater of (i) \$1.00 per share plus, in the case of each share, an amount equal to all dividends declared but unpaid thereon, or (ii) such amount per share as would have been payable had each such share been converted to Common Stock pursuant to paragraph 6 immediately prior to such Liquidation. The amount payable with respect to one share of Series A Convertible Preferred Stock is referred to as the "Liquidation Preference Payment" and with respect to all shares of Series A Convertible Preferred Stock as the "Liquidation Preference Payments". If upon such Liquidation, the assets to be distributed among the holders of Series A Convertible Preferred Stock are insufficient to permit payment to the holders of Series A Convertible Preferred Stock of the full amount distributable, then all of such assets shall be distributed ratably among the holders of Series A Convertible Preferred Stock. Upon any such Liquidation, after the holders of Series A Convertible Preferred Stock are paid in full, the remaining net assets of the Corporation may be distributed to the holders of stock ranking on Liquidation junior to the Series A Convertible Preferred Stock. Written notice of such Liquidation, stating a payment date, the amount of the Liquidation Preference Payments and the place where said Liquidation Preference Payments shall be made, shall be delivered in person, mailed by certified or registered mail, return receipt requested, or sent by telecopier or telex, not less than 20 days prior to the payment date stated therein, to the holders of record of Series A Convertible Preferred Stock, such notice to be addressed to each such holder at its address as shown by the records of the Corporation. 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 (other than a merger to reincorporate the Corporation in a different jurisdiction), and the sale, lease, abandonment, transfer or other disposition by the Corporation of all or substantially all its assets, shall be deemed to be a Liquidation within the meaning of this paragraph 4. For purposes hereof, the Common Stock shall rank on Liquidation junior to the Series A Convertible Preferred Stock.

5. Restrictions. So long as at least 1,000,000 shares of Series A Convertible Preferred Stock are outstanding, the Corporation will not, without the consent or affirmative vote of a majority of the holders thereof:

5A. Amend the Certificate of Incorporation in any respect (except to authorize equity securities the rights and privileges of which will be junior to the Series A Convertible Preferred Stock);

5B. Consent to liquidation, dissolution or winding up of the Corporation or consolidate or merge into or with any other entity or entities or sell, lease, abandon, transfer or otherwise dispose of all or any substantial part of its assets;

5C. Purchase, or set aside any sums for the purchase of, or pay any dividend or make any Distribution on, any shares of stock other than the Series A Convertible Preferred Stock, except pursuant to paragraph 3 hereof;

5D. Redeem or otherwise acquire any shares of Series A Convertible Preferred Stock except as expressly authorized in paragraph 7 hereof or pursuant to a purchase offer made pro rata to all holders of the

shares of Series A Convertible Preferred Stock on the basis of the aggregate number of outstanding shares of Series A Convertible Preferred Stock then held by each such holder;

5E. Sell or permit any subsidiary to sell any stock of such subsidiary other than to the Company;

5F. Authorize any material acquisition outside the scope of the Company's core business; or

5G. Enter into affiliate transactions on other than an arms-length basis, or permit sale of control of the Company, or transfer of all or substantially all of the assets of the Company, or other significant corporate disposition, reorganization or combination;

5H. Authorize or issue any senior equity security.

So long as at least 1,000,000 shares of Series A Convertible Preferred Stock are outstanding, the Corporation will not, without the consent or affirmative vote of 2/3 of the holders thereof, amend the Articles of Incorporation to change in any manner the rights, preferences or privileges of the holders of Series A Convertible Preferred Stock.

6. Conversions. The holders of shares of Series A Convertible Preferred Stock shall have the following conversion rights:

6A. Right to Convert. The holder of any shares of Series A Convertible Preferred Stock shall have the right, at any time, to convert any of such shares of Series A Convertible Preferred Stock into the number of fully paid and nonassessable shares of Common Stock obtained by (i) multiplying the number of shares of Series A Convertible Preferred Stock to be converted by \$1.00 and (ii) dividing the result by the conversion price of \$1.00 per share. If an adjustment of such price has taken place pursuant to the further provisions of this paragraph 6, the conversion price shall be the price as last adjusted (such price, or such price as last adjusted, being the "Conversion Price"). The conversion rights shall be exercised by the holder by: (a) written notice of election to convert a stated number of shares of Series A Convertible Preferred Stock into Common Stock and (b) surrender of a certificate or certificates for such shares to the Corporation at its principal office (or such other office or agency of the Corporation as the Corporation may designate to the holder) during its usual business hours on the date set forth in such notice, together with a statement of the name or names (with addresses) in which the certificate or certificates for shares of Common Stock are to be issued.

6B. Issuance of Certificates; Time Conversion Effected. Promptly after the receipt of the written notice and surrender of the certificate(s) required in 6(A), the Corporation shall issue and deliver, or cause to be issued and delivered, to the holder, registered in such name or names as such holder may direct, one or more certificates for the number of whole shares of Common Stock issuable upon the conversion of such share or shares of Series A Convertible Preferred Stock. To the extent permitted by law, the conversion shall be deemed effected and the Conversion Price determined as of the close of business on the date on which such written notice is received by the Corporation and the certificate or certificates are surrendered. At such time the rights of the holder of such share or shares of Series A Convertible Preferred Stock shall cease, and the person(s) in whose name(s) any certificate(s) for shares of Common Stock are issuable upon such conversion shall be deemed to be the holder or holders of record of such shares.

6C. Fractional Shares; Dividends; Partial Conversion. No fractional shares shall be issued upon conversion of Series A Convertible Preferred Stock into Common Stock, and no payment or adjustment shall be made upon any conversion for any cash dividends on the Common Stock issued upon such conversion. At the time of each conversion, the Corporation shall pay in cash an amount equal to all dividends accrued and unpaid on the shares of Series A Convertible Preferred Stock surrendered for conversion, to the conversion date deemed to take place as provided in subparagraph 6B. If the number of shares of Series A Convertible Preferred Stock represented by the certificate(s) surrendered exceeds the number of shares converted, the Corporation shall, at its expense, execute and deliver to the holder, a new certificate or certificates for the number of shares of Series A Convertible Preferred Stock not converted. With respect to any fractional shares of Common Stock, the Corporation

shall, in lieu of delivering such fractional shares, pay to the holder surrendering the Series A Convertible Preferred Stock for conversion an amount in cash equal to the current market price of such fractional share as determined in good faith by its Board of Directors.

6D. Adjustment of Price Upon Issuance of Common Stock. Except as provided in subparagraph 6E, whenever the Corporation shall issue or sell, or is deemed to issue or sell, any shares of Common Stock for a consideration per share less than the Conversion Price in effect immediately before such issue or sale, then, upon such issue or sale, the Conversion Price shall be reduced to a price determined by dividing (i) an amount equal to the sum of (a) the number of shares of Common Stock outstanding immediately before such issue or sale multiplied by the then existing Conversion Price and (b) the consideration, if any, received by the Corporation upon such issue or sale, by (ii) the total number of shares of Common Stock outstanding immediately after such issue or sale. For purposes of the above calculation, the number of shares of Common Stock issuable upon the conversion of the outstanding shares of Series A Convertible Preferred Stock shall be deemed to be outstanding.

For purposes of this subparagraph 6D, the following subparagraphs 6D(1) to 6D(7) shall also be applicable:

6D(1) Issuance of Rights or Options. If the Corporation grants (directly or by assumption in a merger or otherwise): (i) any warrants or other rights to subscribe for or to purchase, or any options to purchase, Common Stock (collectively, "Options"), or (ii) any stock or security convertible into or exchangeable for Common Stock ("Convertible Securities") whether or not such Options or the right to convert or exchange any such Convertible Securities are immediately exercisable, the price per share for which Common Stock is issuable upon the exercise of such Options or upon the conversion or exchange of such Convertible Securities shall be determined by adding: (a) the total amount received or receivable by the Corporation for the granting of such Options, plus the minimum aggregate amount of additional consideration payable to the Corporation upon the 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 upon the issue or sale of such Convertible Securities and upon the conversion or exchange thereof and dividing the total so determined by: (b) the total maximum number of shares of Common Stock issuable upon the exercise of such Options or upon the conversion or exchange of all such Convertible Securities issuable upon the exercise of such Options. Using this calculation, if the price so determined is less than the Conversion Price in effect immediately before 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 the total maximum amount of such Convertible Securities issuable upon the exercise of such Options shall be deemed to be issued for the price per share in effect on the date of granting of such Options or the issuance of such Convertible Securities and thereafter shall be deemed to be outstanding. Except as otherwise provided in subparagraph 6D(3), no adjustment of the Conversion Price shall be made upon the actual issue of such Common Stock or of such Convertible Securities upon exercise of such Options or upon the actual issue of such Common Stock upon conversion or exchange of such Convertible Securities.

6D(2) Issuance of Convertible Securities. If the Corporation issues (whether directly or by assumption in a merger or otherwise) or sells any Convertible Securities, whether or not the rights to exchange or convert any such Convertible Securities are immediately exercisable, the price per share for which Common Stock is issuable upon such conversion or exchange shall be determined as follows: (a) the total amount received or receivable by the Corporation as consideration for such issue or sale, plus the minimum aggregate amount of additional consideration, if any, payable to the Corporation upon such conversion or exchange, shall be divided by: (b) the total maximum number of shares of Common Stock issuable upon the conversion or exchange of all such Convertible Securities. Using this calculation, if the price per share for which Common Stock is issuable upon such conversion or exchange is less than the Conversion Price in effect immediately before issue or sale, then the total maximum number of shares of Common Stock issuable upon conversion or exchange of all such Convertible Securities shall be deemed to be issued for the price per share on the date of the issue or sale of such Convertible Securities and thereafter shall be deemed to be outstanding. Provided, however, that: (a) unless otherwise provided in subparagraph 6D(3), no adjustment of the Conversion Price shall be made upon the actual issue of such Common Stock upon conversion or exchange of such Convertible Securities and (b) if any such issue or sale of Convertible Securities is made upon exercise of any Options to purchase such Convertible Securities for which



adjustments of the Conversion Price have been or are to be made pursuant to other provisions of this subparagraph 6D, no further adjustment of the Conversion Price shall be made by reason of such issue or sale.

6D(3) Change in Option Price or Conversion Rate. If: (a) the purchase price determined for any Option referred to in subparagraph 6D(1), or (b) the additional consideration, if any, payable upon the conversion or exchange of any Convertible Securities referred to in subparagraph 6D(1) or 6D(2), or (c) the rate at which Convertible Securities referred to in subparagraph 6D(1) or 6D(2) are convertible into or exchangeable for Common Stock shall change at any time (including, but not limited to, changes by reason of anti-dilution provisions) then: (i) the Conversion Price in effect at the time of such event shall be readjusted to the 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 conversion rate, as the case may be, at the time initially granted, issued or sold; and (ii) on the termination of any such Option or right to convert or exchange such Convertible Securities, the Conversion Price then in effect shall be increased to the Conversion Price which would have been in effect at the time of such termination had such Option or Convertible Securities, to the extent outstanding immediately prior to such termination, never been issued.

6D(4) Stock Dividends. If the Corporation declares a dividend or other distribution upon any stock of the Corporation (other than the Common Stock) payable in Common Stock, Options or Convertible Securities, then any Common Stock, Options or Convertible Securities issuable in payment of such dividend or distribution shall be deemed to be issued or sold without consideration.

6D(5) Consideration for Stock. If shares of Common Stock, Options or Convertible Securities are issued or sold for cash, the consideration shall be the amount received by the Corporation therefor, without deduction of any expenses incurred or any underwriting commissions or concessions paid or allowed by the Corporation. If any shares of Common Stock, Options or Convertible Securities are issued or sold for a non-cash consideration, the amount of the non-cash consideration shall be the fair value of such consideration determined in good faith by the Board of Directors of the Corporation, without deduction of any expenses incurred or any underwriting commissions or concessions paid or allowed by the Corporation in connection therewith. If any Options are issued in connection with the issue and sale of other securities of the Corporation in a transaction in which no specific consideration is allocated to the Options, the consideration therefor shall be determined in good faith by the Board of Directors of the Corporation.

6D(6) Record Date. For purposes of determining entitlement of holders of Common Stock: (a) to receive dividends or other distributions payable in Common Stock, Options, or Convertible Securities, (b) to subscribe for or purchase Common Stock, Options or Convertible Securities, the record date shall be: (i) the date of issue or sale of the shares of Common Stock deemed issued or sold upon declaration of the dividend or other distribution or (ii) the date of granting of the subscription right, as the case may be.

6D(7) Treasury Shares. The number of shares of Common Stock outstanding at any given time shall not include shares owned or held by or for the account of the Corporation, and the disposition of any such shares shall be considered an issue or sale of Common Stock for the purpose of this subparagraph 6D.

6E. Exception for Common Stock Reserved for Employees, Directors or Consultants. The Corporation shall not be required to adjust the Conversion Price of an aggregate of 1,500,000 shares (appropriately adjusted to reflect the occurrence of any event described in subparagraph 6F) of Common Stock for consideration of not less than \$.10 per share to directors, officers, employees or consultants of the Corporation in connection with service as directors of the Corporation, their employment by the Corporation or their retention as consultants by the Corporation, plus the amount of any shares repurchased by the Corporation from such individuals pursuant to contractual rights held by the Corporation and at repurchase prices not exceeding the respective original purchase prices paid by such persons to the Corporation.

6F. Subdivision or Combination of Common Stock. If the Corporation subdivides (by any stock split, stock dividend or otherwise) its outstanding shares of Common Stock into a greater number of shares,

the Conversion Price in effect immediately prior to such subdivision shall be proportionately reduced. Conversely, if its outstanding shares of Common Stock are combined into a smaller number of shares, the Conversion Price in effect immediately prior to such combination shall be proportionately increased. In the case of any such subdivision, no further adjustment shall be made pursuant to subparagraph 6D(4).

6G. Reorganization or Reclassification. In any capital reorganization or reclassification of the capital stock of the Corporation entitling holders of Common Stock to receive stock, securities or assets with respect to or in exchange for Common Stock, lawful and adequate provisions shall be made to provide the holders of all shares of Series A Convertible Preferred Stock with the right to receive, upon the basis and upon the terms and conditions specified in this Agreement, such shares of stock, securities or assets as may be issued or payable with respect to or in exchange for a number of outstanding shares of such Common Stock equal to the number of shares of such Common Stock which would have been received in any conversion immediately before such reorganization or reclassification, and in any such case appropriate provisions shall be made to protect the rights and interests of such holder to the end that the provisions hereof (including without limitation provisions for adjustments of the Conversion Price) shall thereafter be applicable, as nearly as possible, in relation to any shares of stock, securities or assets thereafter deliverable upon the exercise of such conversion rights.

6H. Notice of Adjustment. Upon any adjustment of the Conversion Price, the Corporation shall give written notice thereof, by delivery in person, certified or registered mail, return receipt requested, telecopier or telex, addressed to each holder of shares of Series A Convertible Preferred Stock at the address of such holder as shown on the books of the Corporation, which notice shall state the Conversion Price resulting from such adjustment, setting forth in reasonable detail the method upon which such calculation is based.

6I. Other Notices. If:

- (1) the Corporation declares any dividend upon its Common Stock payable in cash or stock or makes any other distribution to the holders of its Common Stock;
- (2) the Corporation offers for subscription pro rata to the holders of its Common Stock any additional shares of stock of any class or other rights;
- (3) there is any capital reorganization or reclassification of the capital stock of the Corporation, or a consolidation or merger of the Corporation with or into another entity or entities, or a sale, lease, abandonment, transfer or other disposition of all or substantially all its assets; or
- (4) there is a voluntary or involuntary dissolution, liquidation or winding up of the Corporation;

then, in any one or more of said cases, the Corporation shall give, by delivery in person, certified or registered mail, return receipt requested, telecopier or telex, addressed to each holder of any shares of Series A Convertible Preferred Stock at the address of such holder as shown on the books of the Corporation, (a) at least 20 days' prior written notice of the date on which the books of the Corporation shall close or a record shall be taken for such dividend, distribution or subscription rights or for determining rights to vote in respect of any such reorganization, reclassification, consolidation, merger, disposition, dissolution, liquidation or winding up and (b) in the case of any such reorganization, reclassification, consolidation, merger, disposition, dissolution, liquidation or winding up, at least 20 days' prior written notice of the date when the same shall take place. Such notice in accordance with the foregoing clause (a) shall also specify, in the case of any such dividend, distribution or subscription rights, the date on which the holders of Common Stock shall be entitled thereto and such notice in accordance with the foregoing clause (b) shall also specify the date on which the holders of Common Stock shall be entitled to exchange their Common Stock for securities or other property deliverable upon such reorganization, reclassification, consolidation, merger, disposition, dissolution, liquidation or winding up, as the case may be.

6J. Stock to be Reserved. The Corporation will at all times reserve and keep available out of its authorized Common Stock, solely for the purpose of issuance upon the conversion of Series A Convertible Preferred Stock as herein provided, the number of shares of Common Stock as shall then be issuable upon the conversion of all outstanding shares of Series A Convertible Preferred Stock. The Corporation covenants that all

shares of such Common Stock shall be duly and validly issued and fully paid and nonassessable and free from all taxes, liens and charges with respect to the issue thereof and that it will from time to time take all such action as may be necessary to assure that the par value per share of the Common Stock is at all times equal to or less than the Conversion Price in effect at the time. The Corporation will take all such action as may be necessary to assure that all such shares of Common Stock may be so issued without violation of any applicable law or regulation, or of any requirement of any national securities exchange upon which the Common Stock may be listed. The Corporation will not take any action which results in any adjustment of the Conversion Price if the total number of shares of Common Stock issued and issuable after such action upon conversion of the Series A Convertible Preferred Stock would exceed the total number of shares of Common Stock then authorized by the Articles of Incorporation.

6K. No Reissuance of Series A Convertible Preferred Stock. Shares of Series A Convertible Preferred Stock which are converted into shares of Common Stock as provided herein shall not be reissued.

6L. Issue Tax. The issue of certificates for shares of Common Stock upon conversion of Series A Convertible Preferred Stock shall be made without charge to the holders thereof for any tax in respect thereof, provided that the Corporation shall not be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of any certificate in a name other than that of the holder of the Series A Convertible Preferred Stock which is being converted.

6M. Closing of Books. The Corporation will not at any time close its transfer books against the transfer of any Series A Convertible Preferred Stock or of any shares of Common Stock issued or issuable upon the conversion of any shares of Series A Convertible Preferred Stock in any manner which interferes with the timely conversion of such Series A Convertible Preferred Stock, except as may otherwise be required to comply with applicable securities laws.

6N. Definition of Common Stock. As used in this paragraph 6, the term "Common Stock" shall mean and include the Corporation's authorized Common Stock, par value \$.001 per share, as constituted on the date of filing of these terms of the Series A Convertible Preferred Stock, and shall also include any capital stock of any class of the Corporation thereafter authorized which shall not be limited to a fixed sum or percentage in respect of the rights of the holders thereof to participate in dividends or in the distribution of assets upon the voluntary or involuntary liquidation, dissolution or winding up of the Corporation; provided that the shares of Common Stock receivable upon conversion of shares of Series A Convertible Preferred Stock shall include only shares designated as Common Stock of the Corporation on the date of filing of this instrument, or in case of any reorganization or reclassification of the outstanding shares thereof, the stock, securities or assets provided for in subparagraph 6G.

6O. Mandatory Conversion. If at any time the Corporation shall effect a firm commitment underwritten public offering of shares of Common Stock in which (i) the aggregate price paid for such shares by the public shall be at least \$15,000,000 and (ii) the price paid by the public for such shares shall be at least \$5.00 per share (appropriately adjusted to reflect the occurrence of any event described in subparagraph 6F), then effective upon the closing of the sale of such shares by the Corporation pursuant to such public offering, all outstanding shares of Series A Convertible Preferred Stock shall automatically convert to shares of Common Stock on the basis set forth in this paragraph 6. In addition, all outstanding shares of Series A Convertible Preferred Stock shall be automatically converted to shares of Common Stock on the basis set forth in this paragraph 6 upon the vote of the holders of at least two-thirds of the outstanding shares of Series A Convertible Preferred Stock. Holders of shares of Series A Convertible Preferred Stock so converted may deliver to the Corporation at its principal office (or such other office or agency of the Corporation as the Corporation may designate by notice in writing to such holders) during its usual business hours, the certificate or certificates for the shares so converted. As promptly as practicable thereafter, the Corporation shall issue and deliver to such holder a certificate or certificates for the number of whole shares of Common Stock to which such holder is entitled, together with any cash dividends and payment in lieu of fractional shares to which such holder may be entitled pursuant to subparagraph 6C. Until such time as a holder of shares of Series A Convertible Preferred Stock shall surrender his or its certificates therefor as provided above, such certificates shall be deemed to represent the shares of Common Stock to which such holder shall be entitled upon the surrender thereof.

7. Redemption. The shares of Series A Convertible Preferred Stock shall be redeemed as follows:

7A. Mandatory Redemption. On August 18, 2004, and on each of the next two anniversaries thereafter (the "Redemption Dates", and each a "Redemption Date"), upon the request of the holders of at least a majority of the outstanding shares of Series A Convertible Preferred Stock, the Corporation shall redeem any outstanding shares of Series A Convertible Preferred Stock according to the percentages listed below:

<u>Date of Redemption</u>	<u>Percentage of Shares of Series A Convertible Preferred Stock then Outstanding to be Redeemed</u>
August 18, 2004	33-1/3% of all the shares of Series A Convertible Preferred Stock Outstanding on August 18, 2004
August 18, 2005	66-2/3 of all the shares of Series A Convertible Preferred Stock outstanding on August 18, 2005
August 18, 2006	100% of all the shares of Series A Convertible Preferred Stock outstanding on August 18, 2006

7B. Redemption Price and Payment. The shares of Series A Convertible Preferred Stock to be redeemed on any Redemption Date shall be redeemed by paying for each share in cash an amount equal to \$1.00 per share plus, in the case of each share, an amount equal to all dividends declared but unpaid thereon, such amount being referred to as the "Redemption Price". Such payment shall be made in full on the applicable Redemption Date to the holders entitled thereto.

7C. Redemption Mechanics. At least 30 but not more than 40 days prior to each Redemption Date, the holders of at least a majority of the outstanding shares of Series A Convertible Preferred Stock may, at their option, notify the Corporation in writing (the "Requirement of Redemption Notice") that they desire the Corporation to redeem the specified percentage of the outstanding shares of Series A Convertible Preferred Stock. In the event the Corporation receives a Requirement of Redemption Notice, written notice (the "Redemption Notice") shall be given at least 20 but not more than 30 days prior to the applicable Redemption Date by the Corporation by delivery in person, certified or registered mail, return receipt requested, telecopier or telex, to each holder of record (at the close of business on the business day next preceding the day on which the Redemption Notice is given) of shares of Series A Convertible Preferred Stock notifying such holder of the redemption and specifying the Redemption Price, such Redemption Date, the number of shares of Series A Convertible Preferred Stock to be redeemed from such holder (computed on a pro rata basis in accordance with the number of such shares held by all holders thereof) and the place where said Redemption Price shall be payable. The Redemption Notice shall be addressed to each holder at his address as shown by the records of the Corporation. From and after the close of business on a Redemption Date, unless there shall have been a default in the payment of the Redemption Price, all rights of holders of shares of Series A Convertible Preferred Stock (except the right to receive the Redemption Price) shall cease with respect to the shares to be redeemed on such Redemption Date, and such shares shall not thereafter be transferred on the books of the Corporation or be deemed to be outstanding for any purpose whatsoever. If the funds of the Corporation are insufficient to redeem the total number of shares of Series A Convertible Preferred Stock on a Redemption Date, the holders of such shares shall share ratably in any funds legally available for redemption of such shares according to the respective amounts which would be payable to them if the full number of shares to be redeemed on such Redemption Date were actually redeemed. The shares of Series A Convertible Preferred Stock required to be redeemed but not so 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 Series A Convertible Preferred Stock, such funds will be used, at the end of the next succeeding fiscal quarter, to redeem the balance of such shares, or such portion thereof for which funds are then legally available, on the basis set forth above.

7D. Redeemed or Otherwise Acquired Shares to be Retired. Any shares of Series A Convertible Preferred Stock redeemed pursuant to this paragraph 7 or otherwise acquired by the Corporation in any manner whatsoever shall be canceled and shall not under any circumstances be reissued; and the Corporation may from time to time take such appropriate corporate action as may be necessary to reduce accordingly the number of authorized shares of Series A Convertible Preferred Stock.

7E. No Superior Rights of Redemption. Without the consent of the holders of at least two-thirds of the outstanding shares of Series A Convertible Preferred Stock, the Corporation shall not grant any holder of any other class of stock the right to have such stock redeemed prior to the conversion and/or redemption of all of the shares of Series A Convertible Preferred Stock.

8. Amendments. No provision of these terms of the Series A Convertible Preferred Stock may be amended, modified or waived without the written consent or affirmative vote of the holders of at least two-thirds of the then outstanding shares of Series A Convertible Preferred Stock.