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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

**CERTIFICATE ACCOMPANYING
SECOND AMENDED AND RESTATED
ARTICLES OF INCORPORATION OF
ACCELLER, INC.**

Pursuant to the provisions of Section 607.1003, 607.1006 and 607.1007 of the Florida Business Corporation Act (the "*Act*"), the undersigned corporation, ACCELLER, INC. (the "*Company*"), a Florida corporation, certifies the following:

1. The name of the Company is Acceller, Inc.
2. The Second Amended and Restated Articles of Incorporation amend and restate the Company's Amended and Restated Articles of Incorporation in their entirety.
3. The Second Amended and Restated Articles of Incorporation were adopted by the Board of Directors effective November 20, 2007 and stockholders of the Company effective November 28, 2007.
4. The Second Amended and Restated Articles of Incorporation were adopted by the Board of Directors at a duly called and held meeting on November 20, 2007 and by the Written Consent of the Stockholders of the Company effective November 28, 2007. The number of votes cast by the holders of (a) a majority of the outstanding capital stock, (b) a majority of the outstanding shares of Series A Convertible Preferred Stock of the Company, and (c) a majority of the outstanding shares of Common Stock of the Company, each voting as a separate class, was sufficient for the approval of the Second Amended and Restated Articles of Incorporation.

IN WITNESS WHEREOF, the Chief Executive Officer & President of the Company has signed this Certificate as of November 28, 2007.

ACCELLER, INC.

By: 

Name: Steven McKean

Title: Chief Executive Officer & President

**SECOND AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
ACCELLER, INC.**

Pursuant to Sections 607.1001, 607.1003, 607.1006 and 607.1007 of the Florida Business Corporation Act (the "*Act*"), Acceller, Inc. approves and adopts the following Second Amended and Restated Articles of Incorporation:

I.

The name of this company is **ACCELLER, INC.** (the "*Company*").

II.

The address of the registered office of the Company in the State of Florida is 815 NW 57th Avenue, Miami, Florida, Zip Code 33126, and the name of the registered agent of the Company in the State of Florida at such address is Steven McKean.

III.

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

IV.

A. The Company is authorized to issue two classes of stock to be designated, respectively, "*Common Stock*" and "*Preferred Stock*." The total number of shares which the Company is authorized to issue is Fifty-Eight Million Two Hundred Fifty Thousand (58,250,000) shares, Fifty Million (50,000,000) shares of which shall be Common Stock (the "*Common Stock*") and Eight Million Two Hundred Fifty Thousand (8,250,000) shares of which shall be Preferred Stock (the "*Preferred Stock*"). The Common Stock and the Preferred Stock shall each have a par value of \$0.01 per share.

B. The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares of Common Stock then outstanding) by the affirmative vote of the holders of a majority of the stock of the Company entitled to vote (voting together as a single class on an as-if converted to Common Stock basis).

C. One Million Five Hundred Thousand (1,500,000) of the authorized shares of Preferred Stock are hereby designated "*Series A Convertible Preferred Stock*" (the "*Series A Preferred*"). Five Million (5,000,000) of the authorized shares of Preferred Stock are hereby designated "*Series A-1 Non-Voting Non-Convertible Preferred Stock*" (the "*Series A-1 Preferred*"). One Million (1,000,000) of the authorized shares of Preferred Stock are hereby designated "*Series A-2 Non-Voting Non-Convertible Preferred Stock*" (the "*Series A-2 Preferred*"). Seven Hundred Fifty Thousand (750,000) of the authorized shares of Preferred

Stock are hereby designated "*Series A-3 Non-Voting Non-Convertible Preferred Stock*" (the "*Series A-3 Preferred*") and collectively with the Series A Preferred, the Series A-1 Preferred and the Series A-2 Preferred, the "*Series Preferred*").

D. The rights, preferences, privileges, restrictions and other matters relating to the Series Preferred are as follows:

1. DIVIDEND RIGHTS.

(a) In the event dividends are paid or distributions made on any share of Common Stock, whether in cash or property, the Company shall pay an additional dividend or make a distribution on all outstanding shares of Series A Preferred in a per share amount equal (on an as-if converted to Common Stock basis) to the amount paid or set aside for each share of Common Stock. No dividends shall be paid or payable on any shares of Series A-1 Preferred, Series A-2 Preferred or Series A-3 Preferred.

(b) The provisions of Section 1(a) shall not apply to (i) a dividend payable in Common Stock, (ii) acquisitions of Common Stock by the Company pursuant to agreements which permit the Company to repurchase such shares at cost (or the lesser of cost or fair market value) upon termination of services to the Company; (iii) acquisitions of Common Stock in exercise of the Company's right of first refusal to repurchase such shares, provided, that such exercise is approved by the Board, (iv) any repurchase of any outstanding securities of the Company that is approved by the Board, or (v) for the sake of clarity, any repurchase or redemption of any of the Series Preferred.

(c) Whenever a dividend provided for in this Section 1 shall be payable in property other than cash, the value of such dividend shall be the fair market value of such distribution as determined in good faith by the Board.

2. VOTING RIGHTS.

(a) **General Rights.** Each holder of shares of the Series A Preferred shall be entitled to the number of votes equal to the number of shares of Common Stock into which such shares of Series A Preferred could be converted (pursuant to Section 5 hereof) immediately after the close of business on the record date fixed for such meeting or the effective date of such written consent and shall have voting rights and powers equal to the voting rights and powers of the Common Stock, except that the holders of the Series A Preferred shall not be entitled to vote in connection with any election for or removal of directors elected pursuant to the provisions of Section 2(c)(ii) below, and shall be entitled to notice of any stockholders' meeting in accordance with the bylaws of the Company. Except as otherwise provided herein or as required by law, the Series A Preferred shall vote together with the Common Stock at any annual or special meeting of the stockholders and not as a separate class, and may act by written consent in the same manner as the Common Stock. Except as required by law, the Series A-1 Preferred, Series A-2 Preferred and the Series A-3 Preferred shall be non-voting.

(b) **Vote of Series A Preferred and Common Stock.** For so long as any shares of Series A Preferred remain outstanding, in addition to any other vote or consent required herein or by law, the vote or written consent of each of (x) the holders of a majority of the outstanding shares of Series A Preferred and (y) the holders of a majority of the outstanding shares of Common Stock (not on an as-if converted to Common Stock basis), each voting as a separate class, shall be necessary for the Company to effect or validate any of the following actions (whether by amendment, merger, consolidation, or otherwise) or to permit any subsidiary of the Company to effect or validate any of the following actions (whether by amendment, merger, consolidation, or otherwise):

(i) Any amendment, alteration, or repeal of any provision of the Articles of Incorporation or the Bylaws of the Company (including any filing of a Certificate of Designation) that alters or changes the voting or other powers, preferences, or other special rights, privileges or restrictions of the Series Preferred (whether by merger or consolidation, other than an Acquisition, as defined below) so as to affect them adversely;

(ii) Any increase or decrease in the authorized number of shares of Series Preferred;

(iii) Any authorization, issuance or any designation, whether by reclassification or otherwise, of any new or existing class or series of stock or any other securities convertible into equity securities of the Company having rights, preferences and privileges senior to the Series A Preferred with respect to dividends, liquidation preference, voting, antidilution protection or redemption;

(iv) Any redemption or repurchase of the Company's Common Stock or Series Preferred (other than pursuant to Section 6 below);

(v) Any agreement by the Company or its stockholders regarding an Asset Transfer or Acquisition (each as defined in Section 4(b) below);

(vi) Any voluntary dissolution or liquidation of the Company;

(vii) Any increase or decrease in the authorized number of members of the Board; or

(viii) Any action that results in the payment or declaration of a dividend on any shares of Common Stock or Series Preferred (other than as required or permitted pursuant to Section 1 above).

(c) **Election of Board of Directors.**

(i) For so long as any shares of Series A Preferred remain outstanding, the holders of Series A Preferred, voting together as a single class, shall be entitled to elect two (2) members of the Board (the "*Series Designees*") at each meeting or pursuant to each consent of the Company's stockholders for the election of directors, and to remove from

office such directors and to fill any vacancy caused by the resignation, death or removal of such directors;

(ii) The holders of Common Stock, voting as a separate class, shall be entitled to elect two (2) members of the Board at each meeting or pursuant to each consent of the Company's stockholders for the election of directors, and to remove from office such directors and to fill any vacancy caused by the resignation, death or removal of such directors; and

(iii) The holders of Common Stock and Series A Preferred, voting together as a single class on an as-if converted to Common Stock basis, shall be entitled to elect all remaining members of the Board, at each meeting or pursuant to each consent of the Company's stockholders for the election of directors, and to remove from office such directors and to fill any vacancy caused by the resignation, death or removal of such directors.

3. LIQUIDATION RIGHTS.

(a) **Series A-3 Preferred.** Upon any liquidation, dissolution, or winding up of the Company, whether voluntary or involuntary (a "*Liquidation Event*"), before any distribution or payment shall be made to the holders of any Series A-2 Preferred, Series A-1 Preferred, Series A Preferred or Common Stock, the holders of Series A-3 Preferred shall be entitled to be paid out of the assets of the Company legally available for distribution, or the consideration received in such transaction, for each share of Series A-3 Preferred held by them, an amount per share of Series A-3 Preferred equal to the Series A-3 Liquidation Preference (as defined below). The "*Series A-3 Liquidation Preference*" shall mean: (i) in the event a Liquidation Event (including, without limitation, a Deemed Liquidation (as defined below)) or the redemption of such share of Series A-3 Preferred pursuant to Section 6 below closes or is consummated on or before December 31, 2008, one and one-quarter times (1.25X) the Original Issue Price for the Series A-3 Preferred (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof); (ii) in the event a Liquidation Event (including, without limitation, a Deemed Liquidation) or the redemption of such share of Series A-3 Preferred pursuant to Section 6 below closes or is consummated on or between January 1, 2009 and December 31, 2009, one and thirty-five one hundredths times (1.35X) the Original Issue Price for the Series A-3 Preferred (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof); and (iii) in the event a Liquidation Event (including, without limitation, a Deemed Liquidation) or the redemption of such share of Series A-3 Preferred pursuant to Section 6 below closes or is consummated on or after January 1, 2010, one and one-half times (1.5X) the Original Issue Price for the Series A-3 Preferred (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof). If, upon any such liquidation, dissolution, or winding up, the assets of the Company (or the consideration received in such transaction) shall be insufficient to make payment in full to all holders of Series A-3 Preferred of the Series A-3 Liquidation Preferences set forth in this Section 3(a), then such assets (or consideration) shall be distributed among the holders of Series A-3 Preferred at the time outstanding, ratably in proportion to the full amounts to which they would otherwise be respectively entitled if such amounts had been paid in full.

(b) **Series A-2 Preferred.** After the payment of the full Series A-3 Liquidation Preference as set forth in Section 3(a) above, upon any Liquidation Event, before any distribution or payment shall be made to the holders of any Series A-1 Preferred, Series A Preferred or Common Stock, the holders of Series A-2 Preferred shall be entitled to be paid out of the assets of the Company legally available for distribution, or the consideration received in such transaction, for each share of Series A-2 Preferred held by them, an amount per share of Series A-2 Preferred equal to the Series A-2 Liquidation Preference (as defined below). The "**Series A-2 Liquidation Preference**" shall mean: (i) in the event a Liquidation Event (including, without limitation, a Deemed Liquidation) or the redemption of such share of Series A-2 Preferred pursuant to Section 6 below closes or is consummated on or before December 31, 2008, one and one-tenth times (1.1X) the Original Issue Price for the Series A-2 Preferred (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof); (ii) in the event a Liquidation Event (including, without limitation, a Deemed Liquidation) or the redemption of such share of Series A-2 Preferred pursuant to Section 6 below closes or is consummated on or between January 1, 2009 and December 31, 2009, one and two-tenths times (1.2X) the Original Issue Price for the Series A-2 Preferred (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof); and (iii) in the event a Liquidation Event (including, without limitation, a Deemed Liquidation) or the redemption of such share of Series A-2 Preferred pursuant to Section 6 below closes or is consummated on or after January 1, 2010, one and three-tenths times (1.3X) the Original Issue Price for the Series A-2 Preferred (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof). If, upon any such liquidation, dissolution, or winding up, the assets of the Company (or the consideration received in such transaction) shall be insufficient to make payment in full to all holders of Series A-2 Preferred of the Series A-2 Liquidation Preferences set forth in this Section 3(b), then such assets (or consideration) shall be distributed among the holders of Series A-2 Preferred at the time outstanding, ratably in proportion to the full amounts to which they would otherwise be respectively entitled if such amounts had been paid in full.

(c) **Series A-1 Preferred.** After the payment of the full Series A-3 Liquidation Preference and the full Series A-2 Liquidation Preference as set forth in Sections 3(a) and (b) above, upon any Liquidation Event, before any distribution or payment shall be made to the holders of any Series A Preferred or Common Stock, the holders of Series A-1 Preferred shall be entitled to be paid out of the assets of the Company legally available for distribution, or the consideration received in such transaction, for each share of Series A-1 Preferred held by them, an amount per share of Series A-1 Preferred equal to the Original Issue Price for the Series A-1 Preferred (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof). If, upon any such liquidation, dissolution, or winding up, the assets of the Company (or the consideration received in such transaction) shall be insufficient to make payment in full to all holders of Series A-1 Preferred of the liquidation preference set forth in this Section 3(b), then such assets (or consideration) shall be distributed among the holders of Series A-1 Preferred at the time outstanding, ratably in proportion to the full amounts to which they would otherwise be respectively entitled if such amounts had been paid in full.

(d) **Series A Preferred.** After the payment of the full Series A-3 Liquidation Preference, the full Series A-2 Liquidation Preferences and the full liquidation preference of the Series A-1 Preferred as set forth in Sections 3(a), (b) and (c) above, upon any Liquidation Event, before any distribution or payment shall be made to the holders of any Common Stock, the holders of Series A Preferred shall be entitled to be paid out of the assets of the Company legally available for distribution, or the consideration received in such transaction, for each share of Series A Preferred held by them, an amount per share of Series A Preferred equal to the sum of (i) 1.6667 times the Original Issue Price for the Series A Preferred plus (ii) all declared and unpaid dividends on the Series A Preferred, if any (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof). If, upon any such liquidation, dissolution, or winding up, the assets of the Company (or the consideration received in such transaction) shall be insufficient to make payment in full to all holders of Series A Preferred of the liquidation preference set forth in this Section 3(c), then such assets (or consideration) shall be distributed among the holders of Series A Preferred at the time outstanding, ratably in proportion to the full amounts to which they would otherwise be respectively entitled if such amounts had been paid in full.

(e) **Remaining Assets.** After the payment of the full Series A-3 Liquidation Preference, the full Series A-2 Liquidation Preferences, the full liquidation preference of the Series A-1 Preferred and the full liquidation preference of the Series A Preferred as set forth in Sections 3(a), (b), (c) and (d) above, the remaining assets of the Company legally available for distribution in such Liquidation Event (or the consideration received in such transaction), if any, shall be distributed ratably to the holders of the Common Stock and Series A Preferred on an as-if converted to Common Stock basis.

(f) The "*Original Issue Price*" of the Series A Preferred and the Series A-1 Preferred shall each be \$0.40 per share. The "*Original Issue Price*" of the Series A-2 Preferred and the Series A-3 Preferred shall each be \$1.00 per share.

4. ASSET TRANSFER OR ACQUISITION RIGHTS.

(a) An Acquisition or Asset Transfer (each as hereinafter defined) shall be deemed to be a liquidation of the Company (a "*Deemed Liquidation*"), unless the holders of a majority of the outstanding Series A Preferred elect otherwise by written notice given to the Company at least five (5) days prior to the effective date of any such Acquisition or Asset Transfer. The Company shall not have the power to effect any transaction constituting a Deemed Liquidation unless the agreement or plan of merger or consolidation provides that the consideration payable to the stockholders of the Company shall be allocated among the holders of capital stock of the Company in accordance with Sections 3 above. The amount deemed paid or distributed to holders of capital stock of the Company upon any Deemed Liquidation shall be determined in accordance with Section 4(c) below.

(b) For the purposes of this Article IV: (i) "*Acquisition*" shall mean (A) any consolidation, stock exchange or merger of the Company with or into any other corporation or other entity or person, or any other corporate reorganization, in which the stockholders of the Company immediately prior to such consolidation, merger or reorganization,

own less than fifty percent (50%) of the voting power of the surviving entity (or if the surviving entity is a wholly-owned subsidiary, its parent) immediately after such consolidation, merger or reorganization; or (B) any transaction or series of related transactions to which the Company is a party in which in excess of fifty percent (50%) of the Company's voting power is transferred; *provided* that an Acquisition shall not include (x) any consolidation or merger effected exclusively to change the domicile of the Company, or (y) any transaction or series of transactions principally for bona fide equity financing purposes in which cash is received by the Company or any successor or indebtedness of the Company is cancelled or converted or a combination thereof; and (ii) "*Asset Transfer*" shall mean a sale, lease or other disposition of all or substantially all of the assets of the Company or the sale, exclusive license, conveyance, exchange or other transfer of all or substantially all of the intellectual property of the Company.

(c) In any Acquisition or Asset Transfer, if the consideration to be received is securities of a corporation or other property other than cash, its value will be deemed its fair market value as determined in good faith by the Board on the date such determination is made; provided, however, that any publicly-traded securities to be distributed to stockholders will be valued as follows:

(i) Securities not subject to investment letter or other similar restrictions on free marketability:

(A) If traded on a securities exchange, the value shall be deemed to be the average of the closing prices of the securities on such exchange over the thirty (30)-day period ending three (3) calendar days prior to the closing; and

(B) If actively traded over-the-counter, the value shall be deemed to be the average of the closing bid or sale prices (whichever are applicable) over the thirty (30)-day period ending three (3) calendar days prior to the closing.

(ii) The method of valuation of securities subject to investment letter or other restrictions on free marketability (other than restrictions arising solely by virtue of a stockholder's status as an affiliate or former affiliate) shall be to make an appropriate discount from the market value determined as above in Sections 4(c)(i)(A) and (B) to reflect the approximate fair market value thereof, as determined in good faith by the Board.

(d) Notwithstanding anything to the contrary in this Section 4, if the definitive transaction documents for an Acquisition or Asset Transfer provide for a different method of valuation, the method of valuation set forth in such documents shall control.

5. CONVERSION RIGHTS.

The holders of the Series A Preferred shall have the following rights with respect to the conversion of the Series A Preferred into shares of Common Stock (the "*Conversion Rights*");

(a) **Optional Conversion.** Subject to and in compliance with the provisions of this Section 5, any shares of Series A Preferred may, at the option of the holder, be

converted at any time into fully-paid and nonassessable shares of Common Stock. The number of shares of Common Stock to which a holder of Series A Preferred shall be entitled upon conversion shall be the product obtained by multiplying the "*Series A Preferred Conversion Rate*" then in effect for the Series A Preferred (determined as provided in Section 5(b)) by the number of shares of Series A Preferred being converted.

(b) **Series A Preferred Conversion Rate.** The conversion rate in effect at any time for conversion the Series A Preferred (the "*Series A Preferred Conversion Rate*") shall be the quotient obtained by dividing the Original Issue Price of the Series A Preferred by the "*Series A Preferred Conversion Price*," calculated as provided in Section 5(c).

(c) **Series A Preferred Conversion Price.** The conversion price for the Series A Preferred shall initially be the Original Issue Price of the Series A Preferred (the "*Series A Preferred Conversion Price*"). Such initial Series A Preferred Conversion Price shall be adjusted from time to time in accordance with this Section 5. All references to the Series A Preferred Conversion Price herein shall mean the Series A Preferred Conversion Price as so adjusted.

(d) **Mechanics of Conversion.** Each holder of Series A Preferred who desires to convert the same into shares of Common Stock pursuant to this Section 5 shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Company or any transfer agent for the Series A Preferred, and shall give written notice to the Company at such office that such holder elects to convert the same. Such notice shall state the number of shares of Series A Preferred being converted. Thereupon, the Company shall promptly issue and deliver at such office to such holder a certificate or certificates for the number of shares of Common Stock to which such holder is entitled and shall promptly pay (i) in cash or, to the extent sufficient funds are not then legally available therefor, in Common Stock (at the Common Stock's fair market value determined by the Board as of the date of such conversion), any declared and unpaid dividends on the shares of Series A Preferred being converted and (ii) in cash (at the Common Stock's fair market value determined by the Board as of the date of conversion) the value of any fractional share of Common Stock otherwise issuable to any holder of Series A Preferred. Such conversion shall be deemed to have been made at the close of business on the date of such surrender of the certificates representing the shares of Series A Preferred to be converted, and the person entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder of such shares of Common Stock on such date.

(e) **Adjustment for Stock Splits and Combinations.** If at any time or from time to time after the date that the first share of Series A-2 Preferred is issued (the "*Original Issue Date*") the Company effects a subdivision of the outstanding Common Stock without a corresponding subdivision of the Series A Preferred, the Series A Preferred Conversion Price for the Series A Preferred in effect immediately before that subdivision shall be proportionately decreased. Conversely, if at any time or from time to time after the Original Issue Date the Company combines the outstanding shares of Common Stock into a smaller number of shares without a corresponding combination of the Series A Preferred, the Series A Preferred Conversion Price for the Series A Preferred in effect immediately before the combination shall be

proportionately increased. Any adjustment under this Section 5(e) shall become effective at the close of business on the date the subdivision or combination becomes effective.

(f) Adjustment for Common Stock Dividends and Distributions.

If at any time or from time to time after the Original Issue Date the Company pays to holders of Common Stock a dividend or other distribution on the Common Stock in additional shares of Common Stock without a corresponding dividend or other distribution to holders of Series A Preferred, the Series A Preferred Conversion Price that is then in effect shall be decreased as of the time of such issuance, as provided below:

(i) The Series A Preferred Conversion Price for the Series A Preferred shall be adjusted by multiplying the Series A Preferred Conversion Price then in effect by a fraction:

(A) the numerator of which is the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance, and

(B) the denominator of which is the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance plus the number of shares of Common Stock issuable in payment of such dividend or distribution;

(ii) If the Company fixes a record date to determine which holders of Common Stock are entitled to receive such dividend or other distribution, the Series A Preferred Conversion Price shall be fixed as of the close of business on such record date and the number of shares of Common Stock shall be calculated immediately prior to the close of business on such record date; and

(iii) If such record date is fixed and such dividend is not fully paid or if such distribution is not fully made on the date fixed therefor, the Series A Preferred Conversion Price shall be recomputed accordingly as of the close of business on such record date and thereafter the Series A Preferred Conversion Price shall be adjusted pursuant to this Section 5(f) to reflect the actual payment of such dividend or distribution.

(g) Adjustment for Reclassification, Exchange, Substitution, Reorganization, Merger or Consolidation. If at any time or from time to time after the Original Issue Date, the Common Stock issuable upon the conversion of the Series A Preferred is changed into the same or a different number of shares of any class or classes of stock, whether by recapitalization, reclassification, merger, consolidation or otherwise (other than an Acquisition or Asset Transfer as defined in Section 4 or a subdivision or combination of shares or stock dividend or a reorganization, merger, consolidation or sale of assets provided for elsewhere in this Section 5), in any such event each holder of Series A Preferred shall then have the right to convert such stock into the kind and amount of stock and other securities and property receivable upon such recapitalization, reclassification, merger, consolidation or other change by holders of the maximum number of shares of Common Stock into which such shares of Series A Preferred could have been converted immediately prior to such recapitalization, reclassification, merger,

consolidation or change, all subject to further adjustment as provided herein or with respect to such other securities or property by the terms thereof. In any such case, appropriate adjustment shall be made in the application of the provisions of this Section 5 with respect to the rights of the holders of Series A Preferred after the capital reorganization to the end that the provisions of this Section 5 (including adjustment of the Series A Preferred Conversion Price then in effect and the number of shares issuable upon conversion of the Series A Preferred) shall be applicable after that event and be as nearly equivalent as practicable.

(h) **Certificate of Adjustment.** In each case of an adjustment or readjustment of the Series A Preferred Conversion Price for the number of shares of Common Stock or other securities issuable upon conversion of the Series A Preferred, if the Series A Preferred is then convertible pursuant to this Section 5, the Company, at its expense, shall compute such adjustment or readjustment in accordance with the provisions hereof and prepare a certificate showing such adjustment or readjustment, and shall mail such certificate, by first class mail, postage prepaid, to each registered holder of the Series A Preferred at the holder's address as shown in the Company's books. The certificate shall set forth such adjustment or readjustment, showing in detail the facts upon which such adjustment or readjustment is based, including a statement of (i) the Series A Preferred Conversion Price at the time in effect, and (ii) the type and amount, if any, of other property which at the time would be received upon conversion of the Series A Preferred.

(i) **Notices of Record Date.** Upon (i) any taking by the Company of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend or other distribution, or (ii) any Acquisition (as defined in Section 4) or other capital reorganization of the Company, any reclassification or recapitalization of the capital stock of the Company, any merger or consolidation of the Company with or into any other corporation, or any Asset Transfer (as defined in Section 4), or any voluntary or involuntary dissolution, liquidation or winding up of the Company, the Company shall mail to each holder of Series A Preferred at least ten (10) days prior to the record date, if any, specified therein (or if no record date is specified, the date upon which such action is to take effect, or in either case, such shorter period approved by the holders of a majority of the outstanding Series A Preferred) a notice specifying (A) the date on which any such record is to be taken for the purpose of such dividend or distribution and a description of such dividend or distribution, (B) the date on which any such Acquisition, reorganization, reclassification, transfer, consolidation, merger, Asset Transfer, dissolution, liquidation or winding up is expected to become effective, and (C) the date, if any, that is to be fixed as to when the holders of record of Common Stock (or other securities) shall be entitled to exchange their shares of Common Stock (or other securities) for securities or other property deliverable upon such Acquisition, reorganization, reclassification, transfer, consolidation, merger, Asset Transfer, dissolution, liquidation or winding up.

(j) **Automatic Conversion.**

(i) Each share of Series A Preferred shall automatically be converted into shares of Common Stock, based on the then-effective Series A Preferred Conversion Price, (A) at any time upon the affirmative election of the holders of a majority of the

outstanding shares of the Series A Preferred, or (B) immediately upon the closing of a firmly underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, covering the offer and sale of Common Stock for the account of the Company in which (i) the per share price is at least five (5) times the Original Issue Price for the Series A Preferred (as adjusted for stock splits, dividends, recapitalizations and the like after the filing date hereof), and (ii) the gross cash proceeds to the Company (before underwriting discounts, commissions and fees) are at least \$25,000,000 (a "Qualified Public Offering").

(ii) Upon the occurrence of either of the events specified in Sections 5(l)(i) (A) or (B) above, the outstanding shares of Series A Preferred shall be converted automatically without any further action by the holders of such shares and whether or not the certificates representing such shares are surrendered to the Company or its transfer agent; *provided, however*, that the Company shall not be obligated to issue certificates evidencing the shares of Common Stock issuable upon such conversion unless the certificates evidencing shares of Series A Preferred are either delivered to the Company or its transfer agent as provided below, or the holder notifies the Company or its transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the Company to indemnify the Company from any loss incurred by it in connection with such certificates. Upon the occurrence of such automatic conversion of the Series A Preferred, the holders of Series A Preferred shall surrender the certificates representing such shares at the office of the Company or any transfer agent for the Series A Preferred. Thereupon, there shall be issued and delivered to such holder promptly at such office and in its name as shown on such surrendered certificate or certificates, a certificate or certificates for the number of shares of Common Stock into which such shares of Series A Preferred surrendered were convertible on the date on which such automatic conversion occurred, and any declared and unpaid dividends shall be paid in accordance with the provisions of Section 5(d).

(k) **Fractional Shares.** No fractional shares of Common Stock shall be issued upon conversion of Series A Preferred. All shares of Common Stock (including fractions thereof) issuable upon conversion of more than one share of Series A Preferred by a holder thereof shall be aggregated for purposes of determining whether the conversion would result in the issuance of any fractional share. If, after the aforementioned aggregation, the conversion would result in the issuance of any fractional share, the Company shall, in lieu of issuing any fractional share, pay cash equal to the product of such fraction multiplied by the fair market value of one share of Common Stock (as determined by the Board) on the date of conversion.

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

(m) **Notices.** Any notice required by the provisions of this Section 5 shall be in writing and shall be deemed effectively given: (i) upon personal delivery to the party to be notified, (ii) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient; if not, then on the next business day, (iii) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (iv) one (1) day after deposit with a nationally recognized overnight courier, specifying next day delivery, with verification of receipt. All notices shall be addressed to each holder of record at the address of such holder appearing on the books of the Company.

(n) **Payment of Taxes.** The Company will pay all taxes (other than taxes based upon income) and other governmental charges that may be imposed with respect to the issue or delivery of shares of Common Stock upon conversion of shares of Series A Preferred, excluding any tax or other charge imposed in connection with any transfer involved in the issue and delivery of shares of Common Stock in a name other than that in which the shares of Series A Preferred so converted were registered.

6. REDEMPTION OF SERIES A-1 PREFERRED, SERIES A-2 PREFERRED AND SERIES A-3 PREFERRED AT HOLDER'S OPTION AND CALL OF SERIES A-1 PREFERRED, SERIES A-2 PREFERRED AND SERIES A-3 PREFERRED AT COMPANY'S OPTION.

The Company shall be obligated to redeem the Series A-1 Preferred, Series A-2 Preferred and Series A-3 Preferred and the Company shall be entitled to redeem the Series A-1 Preferred, Series A-2 Preferred and Series A-3 Preferred, as follows:

(a) The holders of a majority of the then outstanding shares of Series A-1 Preferred, Series A-2 Preferred and Series A-3 Preferred, voting together as a single class (the "*Redemption Majority*"), may require the Company, to the extent it may lawfully do so, to redeem up to all shares of Series A-1 Preferred, Series A-2 Preferred and Series A-3 Preferred (provided, that no shares of shares of Series A-2 Preferred or Series A-1 Preferred may be redeemed until all shares of Series A-3 Preferred have been redeemed in full; and provided, further that no shares of shares of Series A-1 Preferred may be redeemed until all shares of Series A-3 Preferred and Series A-2 Preferred have been redeemed in full) on one or more dates beginning not prior to the one year anniversary of the Original Issue Date.

(b) The Company may in its sole discretion, to the extent it may lawfully do so, without the consent of any of its stockholders, including without limitation the holders of Series A-1 Preferred, Series A-2 Preferred or Series A-3 Preferred, redeem up to all shares of Series A-1 Preferred, Series A-2 Preferred and Series A-3 Preferred on one or more dates beginning any time after the Original Issue Date (provided, that no shares of shares of Series A-2 Preferred or Series A-1 Preferred may be redeemed until all shares of Series A-3 Preferred have been redeemed in full; and provided, further that no shares of shares of Series A-1 Preferred may be redeemed until all shares of Series A-3 Preferred and Series A-2 Preferred have been redeemed in full) (the "*Call Right*").

(c) The date of each redemption referred to in Section 6(a) or Section 6(b), as applicable, is hereinafter referred to as a "*Redemption Date*." The Company

shall effect such redemptions on the applicable Redemption Date by paying in cash in exchange for each share of Series A-1 Preferred, Series A-2 Preferred and Series A-3 Preferred to be redeemed the applicable Redemption Price (as defined below) for such share of Series Preferred. The "*Redemption Price*" for the Series A-1 Preferred shall be an amount equal to the Original Issue Price of the Series A-1 Preferred (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof); the "*Redemption Price*" for the Series A-2 Preferred shall be an amount equal to the Series A-2 Liquidation Preferred; and the "*Redemption Price*" for the Series A-3 Preferred shall be an amount equal to the Series A-3 Liquidation Preference.

(d) Promptly following receipt of the request for redemption from the Redemption Majority or at least five (5) calendar days before exercising its Call Right, the Company shall send a notice (a "*Redemption Notice*") to all holders of Series A-1 Preferred, Series A-2 Preferred and Series A-3 Preferred to be redeemed setting forth (x) the Redemption Price for the shares to be redeemed; and (y) the place at which such holders may obtain payment of the Redemption Price upon surrender of their share certificates. If the Company does not have sufficient funds legally available to redeem all shares to be redeemed at the Redemption Date, then it shall so notify such holders and shall redeem such shares pro rata (based on the portion of the aggregate Redemption Price payable to them) to the extent possible and shall redeem the remaining shares to be redeemed as soon as sufficient funds are legally available (provided, that no shares of Series A-2 Preferred or Series A-1 Preferred shall be redeemed until all shares of Series A-3 Preferred have been redeemed in full; and provided, further that no shares of Series A-1 Preferred may be redeemed until all shares of Series A-3 Preferred and Series A-2 Preferred have been redeemed in full).

(e) On or after each Redemption Date, each holder of shares of Series A-1 Preferred, Series A-2 Preferred and Series A-3 Preferred to be redeemed shall surrender such holder's certificates representing such shares to the Company in the manner and at the place designated in the Redemption Notice, and thereupon the 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 canceled. In the event less than all the shares represented by such certificates are redeemed, a new certificate shall be issued representing the unredeemed shares. From and after such Redemption Date, unless there shall have been a default in payment of the Redemption Price or the Company is unable to pay the Redemption Price due to not having sufficient legally available funds, all rights of the holder of such shares as holder of Series A-1 Preferred, Series A-2 Preferred or Series A-3 Preferred (except the right to receive the applicable Redemption Price for such share of Series Preferred without interest upon surrender of their certificates), shall cease and terminate with respect to such shares; *provided* that in the event that shares of Series A-1 Preferred, Series A-2 Preferred and Series A-3 Preferred are not redeemed due to a default in payment by the Company or because the Company does not have sufficient legally available funds, such shares of Series A-1 Preferred, Series A-2 Preferred and Series A-3 Preferred shall remain outstanding and shall be entitled to all of the rights and preferences provided herein until redeemed.

7. NO REISSUANCE OF SERIES PREFERRED.

No shares of Series Preferred acquired by the Company by reason of redemption, purchase, conversion or otherwise shall be reissued.

V.

A. The liability of the directors of the Company for monetary damages shall be eliminated to the fullest extent under applicable law.

B. To the fullest extent permitted by applicable law, the Company is authorized to provide indemnification of, and advancement of expenses to, directors, officers, employees, other agents of the Company and any other persons to which Florida statutes permit the Company to provide indemnification.

C. Any repeal or modification of this Article V shall only be prospective and shall not affect the rights under this Article V in effect at the time of the alleged occurrence of any action or omission to act giving rise to liability.

VI.

For the management of the business and for the conduct of the affairs of the Company, and in further definition, limitation and regulation of the powers of the Company, of its directors and of its stockholders or any class thereof, as the case may be, it is further *provided* that:

A. The management of the business and the conduct of the affairs of the Company shall be vested in its Board. The number of directors which shall constitute the whole Board shall be fixed by the Board in the manner provided in the Bylaws, subject to any restrictions which may be set forth in these Second Amended and Restated Articles of Incorporation.

B. The Board is expressly empowered to adopt, amend or repeal the Bylaws of the Company. The stockholders shall also have the power to adopt, amend or repeal the Bylaws of the Company; *provided however*, that, in addition to any vote of the holders of any class or series of stock of the Company required by law or by these Second Amended and Restated Articles of Incorporation, the affirmative vote of the holders of a majority of the voting power of all of the then-outstanding shares of the capital stock of the Company entitled to vote generally in the election of directors, voting together as a single class, shall be required to adopt, amend or repeal any provision of the Bylaws of the Company.

C. The directors of the Company need not be elected by written ballot unless the Bylaws so provide.

VII.

In the event that a director of the Company who is also a partner or employee of an entity that is a holder of Preferred Stock and that is in the business of investing and reinvesting in other entities (each, a "*Fund*") acquires knowledge of a potential transaction or matter in such person's

capacity as a partner or employee of the Fund and that may be a corporate opportunity for both the Company and such Fund (a "*Corporate Opportunity*"), then (i) such Corporate Opportunity shall belong to such Fund, (ii) such director shall, to the fullest extent permitted by law, have fully satisfied and fulfilled his fiduciary duty to the Company and its stockholders with respect to such Corporate Opportunity, and (iii) the Company, to the fullest extent permitted by law, waives any claim that such Corporate Opportunity constituted a corporate opportunity that should have been presented to the Company or any of its affiliates provided, however, that such director acts in good faith and such opportunity was not offered to such person in his or her capacity as a director of the Company.

VIII.

Pursuant to Section 607.0901(5)(a) of the Act, the Company elects not to be governed by the requirements or other provisions regarding affiliated transactions in Section 607.0901 of the Act. Therefore, Section 607.0901 of the Act will not apply with respect to the approval, adoption, authorization, ratification or effectuation of any affiliated transactions involving the Company.

IX.

Pursuant to Section 607.0902(5) of the Act, the Company elects not to be governed by the requirements or other provisions regarding control-share acquisitions described in Section 607.0902 of the Act. Therefore, Section 607.0902 will not apply with respect to any control-share acquisition of any equity securities of the Company and the equity securities of the Company will have any and all other rights and privileges available under the Act.

* * * *

FOUR: These Second Amended and Restated Articles of Incorporation have been duly approved by the Board of the Company.

FIVE: These Second Amended and Restated Articles of Incorporation were approved by the holders of the requisite number of shares of said corporation in accordance with Florida statutes. These Second Amended and Restated Articles of Incorporation have been duly adopted in accordance with the provisions of Florida statutes by the stockholders of the Company.

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NO. 555 P. 18

IN WITNESS WHEREOF, ACCELLER, INC. has caused these Second Amended and Restated Articles of Incorporation to be signed by its Chief Executive Officer & President this 23 day of November 2007.

ACCELLER, INC.

By: 

Name: Steven McKean

Title: Chief Executive Officer & President