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AMEND

BASIC AMENDMENT

GOLD COAST RESTAURANTS, INC.

ICC
43.75
5-19



May 18, 1999

GOLD COAST RESTAURANTS, INC.
1408 NORTH WESTSHORE BLVD., SUITE 706
TAMPA, FL 33607

SUBJECT: GOLD COAST RESTAURANTS, INC.
REF: P99000019947

We received your electronically transmitted document. However, the document has not been filed. Please make the following corrections and refax the complete document, including the electronic filing cover sheet.

Section 15.16(3), Florida Statutes, requires each document to contain in the lower left-hand corner of the first page the name, address, and telephone number of the preparer of the original and, if prepared by an attorney licensed in this state, the preparer's Florida Bar membership number.

The date of adoption of each amendment must be included in the document.

The amendment must be adopted in one of the following manners:

(1) If an amendment was approved by the shareholders, one of the following statements must be contained in the document.

(a) A statement that the number of votes cast for the amendment by the shareholders was sufficient for approval, -or-

(b) If more than one voting group was entitled to vote on the amendment, a statement designating each voting group entitled to vote separately on the amendment and a statement that the number of votes cast for the amendment by the shareholders in each voting group was sufficient for approval by that voting group.

(2) If an amendment was adopted by the incorporators or board of directors without shareholder action.

(a) A statement that the amendment was adopted by either the incorporators or board of directors and that shareholder action was not required.

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days or your filing will be considered abandoned.

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Karen Gibson
Corporate Specialist

FAX Aud. #: H99000011850
Letter Number: 799A00027501

**FIRST ARTICLES OF AMENDMENT
TO
ARTICLES OF INCORPORATION
OF
GOLD COAST RESTAURANTS, INC.**

WHEREAS, the proposed amendment to the Articles of Incorporation of Gold Coast Restaurants, Inc., hereinafter set forth was approved by the consent of the sole director and the sole shareholder pursuant to the provisions of Florida Statutes, Section 607.0821 and Section 607.0704, by Action by Written Consent of the Directors and Stockholders dated as of the 9th day of March, 1999.

FIRST: The Corporation name is:

Gold Coast Restaurants, Inc.

SECOND: The Corporation adopts the following as new Article IV (Capital Stock) of its Articles of Incorporation:

ARTICLE IV

Capital Stock

A. Generally

The authorized capital stock which the Corporation may issue shall be as follows:

<u>Class of Stock</u>	<u>Number of Authorized Shares</u>	<u>Par Value</u>
Common Stock	48,660	\$.001
Series A Preferred Stock	51,340	\$.001

B. Series A Preferred Stock

1. **Dividends.** (a) The holders of record of shares of Series A Preferred Stock shall be entitled to receive dividends (the "Series A Dividends") at a rate of eight percent (8%) per annum on the sum of (1) the Liquidation Price (as defined in Section 2(d) below) plus (2) the aggregate amount of all accumulated unpaid Series A Dividends through the dividend payment date. The Series A Dividends will be fully cumulative and prior and in preference to any declaration or payment of any dividend or other distribution on the Junior Securities (as defined in Section 2(a) below). On April 1, 2004 or on a Conversion Date (as to accrued Series A Dividends on the

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converted shares of Series A Preferred only), all accrued unpaid Series A Dividends shall be payable in one (1) lump sum payment to the holders of record of the Series A Preferred Stock (each, a "Record Holder" or more than one, "Record Holders") as they appear on the stock books of the Corporation on that date. From and after April 1, 2004, all accrued Series A Dividends shall be payable to the Record Holders quarterly, in arrears, on the first day of such quarter (the "Series A Quarterly Dividend Date"), commencing on July 1, 2004, except that if any such date is a Saturday, Sunday or legal holiday, then such dividend shall be payable on the next day that is not a Saturday, Sunday or legal holiday on which banks in the State of Florida are permitted to be closed. The Series A Dividends shall automatically accrue in the absence of an election by the Board of Directors within ten (10) days after each Series A Quarterly Dividend Date to pay the Series A Dividends.

(b) The amount of dividends payable for any period that is shorter or longer than a full annual dividend shall be computed on the basis of a 360-day year and the actual number of days elapsed (including the first day but excluding the last day) occurring in the period for which such amount is payable. If a Series A Dividend cannot be paid in full, dividends shall be paid, to the maximum possible extent, to the holders of the Series A Preferred Stock ratably based on the respective amount of Series A Dividends otherwise payable to them. The applicable rate for the Series A Dividends will increase from eight percent (8%) per annum to eighteen percent (18%) per annum for any time period during which payment of a Series A Dividend is due but unpaid.

(c) In the event of a Public Offering (as defined in Section 4(b)), each Record Holder may elect to receive the payment of all Series A Dividends accrued through the date of the Public Offering in registered shares of Common Stock (each, a "Series A Payment-in-Kind" or more than one, "Series A Payments-in-Kind") rather than cash. Any such Series A Payment-in-Kind shall be payable as of the date of the Public Offering to the Record Holder electing to receive such Series

A Payments-in-Kind. Each Series A Payment-in-Kind shall be that number of shares of Common Stock that is equal in number to the aggregate Series A Dividends payable on the date of the Public Offering (including accrued interest compounded on a quarterly basis as indicated above), divided by the per share offering price to the public in the Public Offering, and shall be allocated on a pro rata basis to each Record Holder entitled to receive such dividend. Certificates representing the shares of the Common Stock issuable on payment of any Series A Payment-in-Kind shall be delivered to each Record Holder entitled to receive the Series A Payment-in-Kind (in appropriate denominations) on or before the thirtieth (30th) day following the date of the Public Offering.

(d) The Corporation shall not pay any dividends with respect to the Common Stock while any shares of Series A Preferred Stock remain outstanding.

2. Ranking; Preference on Liquidation. (a) The Series A Preferred Stock ranks senior to every other class or series of the Corporation's preferred stock and all of its Common Stock (collectively, the "Junior Securities").

(b) If the Corporation liquidates, dissolves, or winds up its affairs (voluntarily or involuntarily) (a "Liquidation Event"), after paying or providing for payment of its debts and other liabilities, the Corporation shall pay to the Preferred A Shareholders, before paying any amount to the holders of Junior Securities, a cash amount for each share of Series A Preferred Stock equal to the Liquidation Price, as defined below. If its assets to be distributed among the holders of Series A Preferred Stock on a Liquidation Event are insufficient to permit the Corporation to pay the full Liquidation Price for each share of Series A Preferred Stock, the Corporation shall distribute its assets among the holders of Series A Preferred Stock ratably based on the respective amounts otherwise payable to them.

(c) The following will, at the option of the holders of Series A Preferred Stock, be deemed to be a Liquidation Event and trigger the Corporation's obligation to pay the Liquidation Price: (i) a merger or consolidation of the Corporation with or into one or more corporations that results in the exchange of 50% or more of the outstanding shares of any class of capital stock of the Corporation outstanding immediately before the merger or consolidation for securities or other consideration issued or paid by the other corporation; (ii) the sale or transfer of all or substantially all of the assets of the Corporation; or (iii) the resale by shareholders, in any three-year period, of Common Stock cumulatively constituting 49% or more of the shares of Common Stock outstanding when the Series A Preferred Stock was initially issued. The Corporation will notify the holders of Series A Preferred Stock in writing (the "Liquidation Event Notice") within sixty (60) days after the occurrence of a Liquidation Event. The option of the holders of Series A Preferred Stock to have the foregoing events treated as Liquidation Events may be exercised by written notice given to the Corporation by holders of a majority of the outstanding shares of Series A Preferred Stock within sixty (60) days of the notifying holders' receipt of the Liquidation Event Notice.

(d) The Liquidation Price for a Liquidation Event will be the amount of \$48.695 per share, plus accrued and unpaid Share A Dividends. The Corporation shall pay the Liquidation Price to the holders of Series A Preferred Stock within 15 days of the Company's receipt of notice from those holders of their option to have an event treated as a Liquidation Event under Section 2(c). The Corporation shall pay to each holder of Series A Preferred Stock interest at an annual rate of 18% on any part of the Liquidation Price not paid when due.

3. **Redemption.**(a) Subject to the terms and conditions of this section, any holder of Series A Preferred Stock may require the Corporation to redeem its shares of Series A Preferred Stock with cash at the redemption price per share determined pursuant to paragraph (d) of this

Section 3 (the "Share Price"), plus any dividends (whether or not declared or due) accrued and unpaid on the redeemed shares to the redemption date (the "Redemption Price").

(b) (i) On December 31, 2006, each holder of Series A Preferred Stock may require the Corporation to redeem up to one-third of the shares of such stock that it held as of July 1, 2006; on December 31, 2007, each holder of Series A Preferred Stock may require the Corporation to redeem another one-third of the shares of such stock that it held as of July 1, 2006, less the number of shares, if any, previously redeemed, or if the holder did not exercise its redemption right on the December 31, 2006 Redemption Date, the holder may require the Corporation to redeem up to two-thirds of the shares of such stock it held as of July 1, 2006; and on December 31, 2008, and at any time thereafter, each holder of Series A Preferred Stock may require the Corporation to redeem all remaining shares of such stock that it still holds. During the period between May 1 and June 1 preceding each such December 31, the Corporation shall notify each Series A Preferred Stock holder of the availability of this redemption option.

(ii) As appropriate with respect to a redemption pursuant to this Section 3, December 31, 2006, 2007, and 2008 (or the later effective date after December 31, 2008, of Investor's exercise of its redemption right) each constitutes a Redemption Date.

(c) Each holder of Series A Preferred Stock electing to require the Corporation to redeem its shares pursuant to this section shall notify the Corporation of its election by means of certified mail, return receipt requested, addressed to the Corporation and mailed at least six months before the Redemption Date. The notice must specify (i) the Redemption Date; (ii) unless all shares eligible for redemption are to be redeemed, the number of shares of Series A Preferred Stock to be redeemed; (iii) the Redemption Price; and (iv) the place for the holder's receipt of payment and for its delivery to the Corporation of stock certificate(s) and transfer instrument(s). Any notice given in

this manner will be effective when sent, whether or not actually received by the Corporation. A Series A Preferred Stock holder may cancel its notice with respect to a redemption (and nullify the related redemption) by notifying the Corporation by these means at least thirty days before the Redemption Date.

(d) The Share Price for a redemption of the Series A Preferred Stock will be the highest of the following: (i) the fair market value of the redeemed Series A Preferred Stock on the Redemption Date, as determined by independent appraisal (in accordance with the terms and conditions described below), (ii) the Book Value (as defined below) of the redeemed Series A Preferred Stock, or (iii) the actual amount paid by the redeeming holder with respect to the redeemed Series A Preferred Stock. Any independent appraisal to determine the fair market value of the redeemed Series Preferred Stock will be performed by an independent, nationally recognized appraiser qualified in the fair market value of companies (a "Qualified Appraiser") acceptable to both the Board of Directors and a majority of the Series A Preferred Stock holders. If the Board of Directors and the majority of the Series A Preferred Stock holders cannot agree on an appraiser, each will select a Qualified Appraiser, and the fair market value of the redeemed Series A Preferred Stock will be determined by taking the average of the two Qualified Appraiser's valuations. All costs relating to any appraisal(s) of the fair market value of the redeemed Series A Preferred Stock will be paid by the Corporation. For purposes of this Agreement, the term "Book Value" means, as to any particular shares of stock, the aggregate book value per share of those shares as shown on the Corporation's books of account on the Redemption Date, as determined by the Corporation's independent certified public accountants.

(e) The Corporation shall pay the applicable Redemption Price to each holder of redeemed Series A Preferred Stock when the holder delivers to the place specified in its notice (i)

the certificate(s) evidencing the redeemed Series A Preferred Stock and (ii) transfer instrument(s) sufficient to transfer to the Corporation the redeemed Series A Preferred Stock, free of any adverse interest. If a holder redeems less than all of the shares evidenced by a certificate, the Corporation shall at its expense issue and deliver to the holder a new certificate evidencing the unredeemed shares.

(f) Provided that the Corporation deposits in a separate bank account, in trust solely for the express purpose of paying the Redemption Price, sufficient funds to pay the aggregate Redemption Price payable for all redeemed shares and those funds are disbursed in payment of the Redemption Price on the Redemption Date, (i) no interest will accrue on the Redemption Price after the Redemption Date, (ii) the redeemed shares of Series A Preferred Stock will cease to be outstanding at the close of business on the Redemption Date (whether or not the holder surrenders its certificate), and (iii) the holders of the redeemed shares will cease to have any further rights with respect to those shares, except to receive payment of the Redemption Price. The Corporation shall pay to each holder of redeemed Series A Preferred Stock interest at an annual rate of 18% on any amount of the Redemption Price not paid when due.

(g) No share of Series A Preferred Stock with respect to which a Conversion Date (as defined below) has occurred may be redeemed.

(h) At the Corporation's request, each holder of Series A Preferred Stock will subordinate its redemption rights under the Section to the claims of a senior debt lender that furnishes loans to the Corporation on terms that holders of a majority of the Series A Preferred Stock have approved.

4. **Conversion.** Each share of Series A Preferred Stock shall be convertible into Common Stock as follows:

(a) **Conversion Option.** Subject to the terms and conditions of this Section 4, the holder of any share of Series A Preferred Stock may, at the holder's option, at any time and from time to time (except on or following the effective date of any Liquidation Event or the redemption of the shares proposed to be converted), convert any or all of its shares of Series A Preferred Stock into the number of fully paid and nonassessable shares of Common Stock determined pursuant to Section 4(c).

(b) **Mandatory Conversion.** All shares of Series A Preferred Stock then outstanding will automatically be converted into the number of fully paid and nonassessable shares of Common Stock set forth in this Section 4(c) as of the date that the Securities and Exchange Commission declares effective a registration of the Common Stock under the Securities Act of 1933, as amended, and the Corporation completes a bona fide offering of its Common Stock to the general public (a "Public Offering") (i) that is underwritten on a firm commitment basis by one or more nationally recognized underwriters (ii) from which the Corporation receives net cash proceeds of at least \$20,000,000, and (iii) that provides for an initial offering price to the public per share of Common Stock of at least three times the Series A Conversion Price (as defined below) in effect on the effective date.

(c) **Series A Conversion Price.** Each share of Series A Preferred Stock shall be convertible into such number of shares of Common Stock as is determined by dividing \$48.695 by the Series A Conversion Price in effect on the Conversion Date (as defined below). The "Series A Conversion Price" at which shares of Common Stock will be issuable on conversion of shares of the Series A Preferred Stock initially will be \$48.695 and, thus, initially each such share of Series A Preferred Stock is convertible into one share of Common Stock. Based on the initial Series A Conversion Price, all of the 51,340 outstanding shares of Series A Preferred Stock are initially

convertible into 51,340 shares of Common Stock. The Series A Conversion Price will be subject to adjustment as set forth in Section 4(f). If the holder converts more than one share of Series A Preferred Stock, the number of shares of Common Stock issuable on conversion will be computed on the basis of the aggregate number of shares of Series A Preferred Stock so converted.

(d) **Mechanics of Conversion.** A holder may exercise the conversion right specified in Section 4(a) as to all or any part of its Series A Preferred Stock by surrendering to the Corporation (or to another person designated by the Board of Directors) the certificates evidencing the shares it elects to convert, endorsed and assigned to the Corporation in blank, and accompanied by written notice confirming the holder's exercise of its conversion option as to all or a specified portion of the shares evidenced by the certificates. Each holder of outstanding Series A Preferred Stock shall promptly surrender its stock certificates to the Corporation on a mandatory conversion pursuant to Section 4(b). Conversion of shares of Series A Preferred Stock to Common Stock will be effective when the holder delivers to the Corporation notice of its election to convert and certificates evidencing the converted shares (for a conversion pursuant to Section 4(a)) or on the date of the Public Offering (for a conversion pursuant to Section 4(b)) (the foregoing respective dates are the "Conversion Date".) As promptly as practicable after the Conversion Date and in any event within five days after surrender of the certificate or certificates representing converted shares of Series A Preferred Stock, the Corporation shall issue and deliver at its expense to a converting holder (or to another person designated in writing by the holder), a certificate evidencing the number of whole shares of Common Stock to which such holder is entitled. The person in whose name the certificate or certificates for Common Stock are to be issued will be deemed the holder of such Common Stock as of the close of business on the Conversion Date. On conversion of only a portion of the number of shares evidenced by a certificate surrendered for conversion, the Corporation shall

issue and deliver at its expense to the converting holder (or to another person designated in writing by the holder) a new certificate for the number of shares of Series A Preferred Stock evidencing the unconverted portion of the surrendered certificate. At the close of business on the Conversion Date, (i) the converted shares of Series A Preferred Stock will cease to be outstanding, (ii) the holders of the converted shares will cease to have any further rights with respect to those shares, except to receive Common Stock and cash (as specified below) with respect to the converted shares, and (iii) the holders of the converted shares will be deemed to have become the record holder of the Common Stock for all purposes.

(e) **Fractional Shares.** The record holder and subsequent holders of Series A Preferred Stock, by the acceptance thereof, expressly waive their right to receive fractional shares of Common Stock or Series A Preferred Stock on conversion of shares of Series A Preferred Stock. If any fraction of a share would be issuable on the conversion of Series A Preferred Stock (or any specified portion thereof), the Corporation shall pay to the holder in lieu thereof an amount in cash equal to the product of such resulting fraction and the Series A Conversion Price.

(f) **Adjustments to Series A Conversion Price.**

(i) **Adjustments of Series A Conversion Price Upon Issuance of Common Stock.** If the Corporation issues or sells (or pursuant to subparagraphs (f)(1) through (f)(8), is deemed to issue or sell) any shares of Common Stock for consideration per share less than the Series A Conversion Price in effect immediately before the issuance or sale, the Series A Conversion Price will be reduced to the price determined by dividing (i) an amount equal to the sum of (a) the number of shares of Common Stock outstanding immediately before such issuance or sale (including as outstanding all shares of Common Stock issuable on conversion of outstanding Series A Preferred Stock and on exercise of outstanding options) multiplied by the then existing Series A Conversion

Price and (b) the consideration, if any, received by the Corporation upon such issuance or sale, by (ii) the total number of shares of Common Stock outstanding immediately after such issuance or sale (including as outstanding all shares of Common Stock issuable on conversion of outstanding Series A Preferred Stock, based on the conversion ratio in effect immediately before the issuance, and on exercise of outstanding options).

For purposes of this paragraph (f), the following subparagraphs (f)(1) to (f)(8) also apply to conversion of the Series A Preferred Stock to Common Stock:

(f)(1) Issuance of Rights or Options. In case the Corporation in any manner issues (whether directly or by assumption in a merger or otherwise) warrants or other rights to subscribe for or purchase, or options to purchase, Common Stock or stock or securities convertible into or exchangeable for Common Stock (the warrants, rights or options are "Options" and the convertible or exchangeable stock or securities are "Convertible Securities"), whether or not the Options or Convertible Securities are immediately exercisable, and the price per share (determined, for a formula price, based on current circumstances or, if dependent on future circumstances, facts that would result in the highest price per share) for which Common Stock is issuable on the Options' exercise or on the conversion or exchange of the Convertible Securities (determined by dividing (i) the total amount, if any, payable to the Corporation as consideration for the Option grant, plus the aggregate amount of additional consideration payable to the Corporation on the Option exercise, plus, in the case of any Options that relate to Convertible Securities, any consideration payable on the issue or sale of the Convertible Securities and on their conversion or exchange, by (ii) the total number of shares of Common Stock issuable upon the Options' exercise or on the conversion or exchange of Convertible Securities issuable on

the Options' exercise) is less than the Series A Conversion Price in effect immediately before the Option grant, the total number of shares of Common Stock issuable on the Options' exercise or on conversion or exchange of any Convertible Securities issuable on the Options' exercise will be deemed issued for such price per share on the date of the Options' grant and thereafter will be deemed outstanding. Except as otherwise provided in subparagraph (f)(3), the Series A Conversion Price will not be further adjusted when the Common Stock is actually issued on exercise of the Options or conversion or exchange of Convertible Securities.

(f)(2) **Issuance of Convertible Securities.** In case the Corporation in any manner issues (whether directly or by assumption in a merger or otherwise) or sells Convertible Securities, whether or not the rights to exchange or convert the Convertible Securities are immediately exercisable, and the price per share (determined, in the case of a formula price, on the basis of current circumstances or, if dependent on future circumstances, the facts would result in the highest price per share) for which Common Stock is issuable upon the conversion or exchange (determined by dividing (i) the total amount payable to the Corporation as consideration for the issue or sale of the Convertible Securities, plus the aggregate amount of additional consideration, if any, payable to the Corporation on the their conversion or exchange, by (ii) the total number of shares of Common Stock issuable on conversion or exchange of all such Convertible Securities) is less than the Series A Conversion Price in effect immediately before the issue or sale, then the total number of shares of Common Stock issuable upon conversion or exchange of the Convertible Securities will be deemed to be issued for such price per share as of the date of the issue or sale of the Convertible Securities and thereafter will be deemed outstanding, provided that (a) except

as provided in subparagraph (f)(3), no further adjustment of the Series A Conversion Price will be made otherwise when the Common Stock is actually issued on conversion or exchange of the Convertible Securities and (b) the Series A Conversion Price will not be further adjusted pursuant to this subsection for the issue or sale of Convertible Securities on the exercise of Options to purchase the Convertible Securities if the Series A Conversion Price has been or will be adjusted for the transaction pursuant to other provisions of this paragraph (f).

(f)(3) Change in Option Price or Conversion Rate. Upon the happening of any of the following events, namely, if the purchase price provided for in any Option referenced in subparagraph (f)(1), the additional consideration, if any, payable upon the conversion or exchange of any Convertible Securities referred to in subparagraph (f)(1) or (f)(2), or the rate at which Convertible Securities referred to in subparagraph (f)(1) or (f)(2) are convertible into or exchangeable for Common Stock changes at any time (including, but not limited to, changes under or by reason of provisions designed to protect against dilution), the Series A Conversion Price in effect at the time of such event will be readjusted to the Series A Conversion Price which would have been effective at that time had the Options or Convertible Securities still outstanding provided for such changed purchase price, additional consideration or conversion rate, as the case may be, when initially granted, issued or sold; and on the expiration of the Options or the termination of a right to convert or exchange any Convertible Securities, the Series A Conversion Price then in effect will be increased to the Series A Conversion Price that would have been in effect at the time of the expiration or termination had the Options or Convertible Securities never been issued.

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(f)(4) Stock Dividends and Subdivisions. In case the Corporation declares a dividend or makes any other distribution on stock of the Corporation payable in Common Stock (except for dividends or distributions payable in shares of Common Stock upon the Series A Preferred Stock), Options, or Convertible Securities, the Common Stock, Options, or Convertible Securities, as the case may be, issuable in payment of the dividend or distribution will be deemed to have been issued or sold (as of the record date) without consideration (except for the consideration payable to exercise any Options or convert any Convertible Securities). In case the Corporation subdivides its outstanding shares of Common Stock into a greater number of shares, the Conversion Price then in effect will be proportionately reduced to reflect the subdivision. In case the Corporation combines its outstanding shares of Common Stock into a fewer number of shares, the Conversion Price then in effect will be proportionately increased to reflect the combination.

(f)(5) Consideration for Stock. In case any shares of Common Stock, Options, or Convertible Securities are issued or sold for cash, the consideration deemed to be received will be the amount actually received by the Corporation, without deduction of any expenses incurred or any underwriting commissions or concessions paid or allowed by the Corporation in connection with the issuance or sale. In case any shares of Common Stock, Options, or Convertible Securities are issued or sold for a consideration other than cash, the amount of the consideration other than cash received by the Corporation will be the fair value of such consideration as determined in good faith by the Corporation's Board of Directors, without deduction of any expenses incurred or any underwriting commissions or concessions paid or allowed by the Corporation in connection with the issuance or sale.

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(f)(6) Record Date. If the Corporation sets a record date to determine the holders of its Common Stock entitled (i) to receive a dividend or other distribution payable in Common Stock, Options, or Convertible Securities or (ii) to subscribe for or purchase Common Stock, Options, or Convertible Securities, the record date will be deemed to be the date of the issue or sale of the shares of Common Stock deemed to have been issued or sold upon the declaration of a dividend or the making of another distribution or the date of the granting of such right of subscription or purchase, as the case may be.

(f)(7) Treasury Shares. The number of shares of Common Stock outstanding at any given time does not include shares owned or held by or for the account of the Corporation, and its disposition of these shares will be considered an issue or sale of Common Stock for purposes of this subparagraph (f)(7).

(f)(8) Reports as to Adjustments. Whenever the Series A Conversion Price is adjusted as provided in this subsection, the Corporation shall (i) promptly compute the adjustment and furnish to each holder of shares of the Series A Preferred Stock a certificate, signed by a principal financial officer of the Corporation, setting forth the new Series A Conversion Price and the number of shares of Common Stock into which each share of Series A Preferred Stock is convertible as a result of the adjustment, a brief statement of the facts requiring the adjustment, the computation of the adjustment, and when the adjustment will become effective.

(g) Certain Issues of Common Stock Excepted. Notwithstanding the foregoing provisions, the Corporation will not be required to adjust the Series A Conversion Price in the case of the issuance of, in the case of the Common Stock, up to the aggregate of 18,000 additional shares of Common Stock, that have been issued or are available for issuance pursuant to options or

restricted stock grants, to the Corporation's officers, directors, employees or agents for their service to the Corporation, and up to 10,000 additional shares of Common Stock that are subject to an option in favor of Leverock's Franchising Corporation (in each case, appropriately adjusted to reflect the occurrence of an event described in paragraph (f)).

(h) **Reservation of Stock Issuable Upon Conversion.** The Corporation shall reserve out of its authorized but unissued Common Stock, solely for the purposes of effecting the conversion of the Series A Preferred Stock, the number of shares of Common Stock issuable on conversion of all outstanding Series A Preferred Stock. The holders of Common Stock do not have any preemptive right to purchase these reserved shares.

(i) **Payment of Taxes.** The Corporation shall pay any and all taxes, documentary or otherwise, that are payable with respect to the issuance or delivery of Common Stock on conversion of the Series A Preferred Stock. The Corporation shall not, however, be required to pay tax with respect to a transfer involved in the issue or transfer and delivery of shares of Common Stock in a name other than the record name of the converted Series A Preferred Stock, and no issuance or delivery shall be made unless and until the person requesting such issue pays to the Corporation the amount of any such tax or establishes to the Corporation's satisfaction payment of the tax or that no tax is due. In no event need the Corporation pay or reimburse a registered holder for any income tax or ad valorem tax payable by the holder because of the issuance of Common Stock on conversion of Series A Preferred Stock.

(j) **No Reissuance of Series A Preferred Stock.** Shares of Series A Preferred Stock converted pursuant to this Section 4 will be canceled by the Corporation.

(k) **No Conversion of Series A Preferred Stock Being Redeemed.**

Notwithstanding this Section 4, no share of Series A Preferred Stock for which the holder has

given a redemption notice pursuant to Section 3 may be converted into Common Stock, unless the holder effectively withdraws the redemption notice and nullifies the redemption.

(1) **Adjustments for Merger, Consolidation, etc.** In the case of any classification, reclassification, or other reorganization of the Corporation's capital stock, or in the case of the merger or consolidation of the Corporation with or into another corporation, or the conveyance to another corporation of all or any major portion of the Corporation's assets, then, as part of the classification, reclassification, merger, consolidation, or conveyance, adequate provision shall be made for each holder of Series A Preferred Stock, on exercise of its conversion privilege, to receive on the same basis and conditions set forth in this Section 4 with respect to the Common Stock, the stock, securities, or other property that the holder would have been entitled to receive on such classification, reclassification, merger, consolidation, or conveyance, if the holder had exercised the conversion privilege immediately before the classification, reclassification, merger, consolidation, or conveyance, and in any such case appropriate provision will be made with respect to the rights and interests of the holder to the end that the provisions of this Section 4 (including without limitation, provision for adjustment of the Series A Conversion Price) will be applicable to the shares of stock, securities, or other property deliverable on the exercise of the conversion privilege; and, as a condition of any consolidation, merger, or conveyance, any corporation that succeeds to the Corporation by reason of the merger, consolidation or conveyance shall assume the obligation to deliver, on exercise of the conversion privilege, the shares of stock, securities or other considerations that the holders of the Series A Preferred Stock are entitled to receive pursuant to this Section 4.

5. **Voting.** In addition to its voting rights specially provided for in these articles or granted by applicable law, each holder of Series A Preferred Stock will be entitled to voting rights

with respect to all matters on which holders of Common Stock have the right to vote. Each holder of Series A Preferred Stock may vote that number of votes equal to the number of whole shares of Common Stock into which the holder's shares of Series A Preferred Stock would be convertible pursuant to the provisions of Section 4 as of the record date for the determination of shareholders entitled to vote on the matter. Each holder's votes will be counted together with all other shares of capital stock having general voting powers and not separately as a class, except as otherwise provided in these articles or by applicable law. In cases in which the holders of shares of Series A Preferred Stock are entitled to approve a matter or vote separately as a class, each holder will be entitled to one vote for each of its shares and the vote of a majority of the outstanding shares of Series A Preferred Stock will constitute the action of that class.

6. **Authorization of Additional Classes of Shares.** So long as shares of Series A Preferred Stock remain outstanding, the Corporation shall not, without the prior written consent of holders of a majority of the then outstanding shares of Series A Preferred Stock, authorize the creation of a new class of shares having dividend rights or liquidation preferences equal or superior to the Series A Preferred Stock, or improve the dividend rights or liquidation preferences of the Junior Securities such that they become equal or superior to the Series A Preferred Stock.

7. **Reissuance of Shares.** Any shares of Series A Preferred Stock redeemed or otherwise reacquired by the Corporation will be canceled and not available for further issuance.

8. **Definition.** As used in this Article, the term "cash" means immediately available funds constituting legal tender of the United States of America.

THIRD: The Corporation adopts the following as new Article VII (Amendment of Articles of Incorporation) of its Articles of Incorporation:

So long as any shares of the Series A Preferred Stock are outstanding, the Corporation shall not, without the affirmative vote of holders of a majority of the Series A Preferred Stock voting together as a separate class, in addition to any other vote, consent, or approval required by law or otherwise, amend the Corporation's Articles of Incorporation or Bylaws in any manner which adversely affects the relative rights and preferences of the Series A Preferred Stock or changes any of the rights, preferences, or interests of the Series A Preferred Stock.

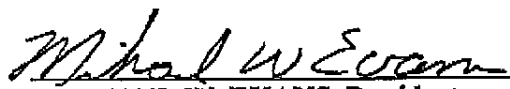
FOURTH: The Corporation adopts the following as new Article VIII (Directors) of its Articles of Incorporation:

ARTICLE VIII - Directors

Directors

The Board of Directors of the Corporation shall consist of up to five (5) Directors. So long as at least 10% of the shares of Series A Preferred Stock originally issued are outstanding (adjusted for any recapitalization), the holders of the Series A Preferred Stock, voting as a class, shall nominate and elect two (2) directors, the holders of the Common Stock, voting as a class, shall nominate and elect two (2) directors, and the fifth director shall be a person who is not a company officer or director and who is nominated by the holders of the Common Stock and reasonably acceptable to holders of a majority of the Series A Preferred Stock, and shall be elected by the holders of the Common Stock and the Series A Preferred Stock, voting together as a class. Directors so elected may be removed and vacancies in such seats filled only by like action. Each class may, at its option, elect fewer than the number of directors designated by this Article.

IN WITNESS WHEREOF, the Corporation has caused these Articles of Amendment to the Articles of Incorporation to be executed and attested by its authorized officer as of this 9th day of March, 1999.


MICHAEL W. EVANS, President
and a Director