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BASIC AMENDMENT

BYE BYE NOW.COM, INC.

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AMENDMENT
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ARTICLES OF AMENDMENT
TO
SECOND AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
BYE BYE NOW.COM, INC.

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Pursuant to the provisions of Section 607.0602 of the Florida Business Corporation Act, BYE BYE NOW.COM, INC., a Florida corporation (the "Corporation"), in accordance with actions duly adopted by the Board of Directors of the Corporation by unanimous written consent dated June 5, 2000, hereby adopts the following amendments to its Articles of Incorporation:

Article II of the Second Amended and Restated Articles of Incorporation of the Corporation is hereby deleted in its entirety and the following is substituted therefor:

ARTICLE II.

Shares

1. Designation. The aggregate number of shares of capital stock which the Corporation has authority to issue is 130,000,000 shares, which shall consist of 100,000,000 shares of common stock, \$.001 par value per share ("Common Stock"), and 30,000,000 shares of preferred stock, \$.001 par value per share ("Preferred Stock"), of which 2,600,000 shares shall be Series A Convertible Preferred Stock, par value \$.001 per share (the "Series A Preferred Stock"), 4,000,000 shall be Series B Convertible Preferred Stock, par value \$.001 per share (the "Series B Preferred Stock"), 7,400,000 shall be Series C Convertible Preferred Stock, par value \$.001 per share (the "Series C Preferred Stock"), 8,000,000 shall be Series D Convertible Preferred Stock, par value \$.001 per share (the "Series D Preferred Stock"), 2,250,000 shall be Series E Convertible Preferred Stock, par value \$.001 per share consisting of 1,166,667 shares of Series E-1 Preferred Stock and 1,083,333 shares of Series E-2 Preferred Stock (collectively the "Series E Preferred Stock") and 373,874 shall be Series F Convertible Preferred Stock, par value \$.001 per share (the "Series F Preferred Stock"). The Board of Directors of the Corporation may, by action taken by the Board of Directors in its sole discretion, designate such additional classes of Preferred Stock, and determine the preferences, limitations and relative rights thereof, as are consistent with the provisions hereof.

2. Liquidation, Dissolution or Winding Up

(a) Treatment at Liquidation, Dissolution or Winding Up.

(i) In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, after distribution in full of the liquidation preference amounts to be distributed to the holders of shares of the Preferred Stock, the holders of shares of the Common Stock shall be entitled to receive all of the remaining assets of the Corporation available for distribution to its shareholders, ratably in proportion to the number of shares of the Common Stock held by them. In the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, before any distribution may be made with respect to the Common Stock, and subject to the liquidation rights and preferences of any class or series of

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Preferred Stock designated in the future to be senior to the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock and Series F Preferred Stock, holders of each share of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock and Series F Preferred Stock, together with the holders of any class or series of Preferred Stock designated in the future to be *pari passu* with the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock and Series F Preferred Stock, shall be entitled to be paid out of the assets of the Corporation available for distribution to holders of the Corporation's capital stock of all classes, whether such assets are capital, surplus, or capital earnings. The holders of each share of Series A Preferred Stock, Series B Preferred Stock and Series C Preferred Stock shall be entitled to be paid a liquidation preference amount of \$.50 per share of Series A Preferred Stock, \$1.00 per share of Series B Preferred Stock and \$1.00 per share of Series C Preferred Stock, respectively, as such amounts may be equitably adjusted to account for any Extraordinary Stock Event involving Series A Preferred Stock, Series B Preferred Stock or Series C Preferred Stock. Each holder of Series D Preferred Stock shall be entitled to be paid an amount which is equal to the greater of (i) one hundred twenty five percent (125%) of the Series D Price, initially \$3.75 per share of Series D Preferred Stock, or (ii) the amount per share a holder of Series D Preferred Stock would have received upon conversion of the Series D Preferred Stock into Common Stock immediately prior to liquidation. Each holder of Series E Preferred Stock shall be entitled to be paid an amount per share which is equal to the Series E Price, initially \$4.44 per share of Series E Preferred Stock. Each holder of Series F Preferred Stock shall be entitled to be paid an amount per share which is equal to the Series F Price, initially \$4.44 per share of Series F Preferred Stock. The term "Series D Price" shall mean the average stated value paid by a holder of the Series D Preferred Stock, initially \$3.00 per share of Series D Preferred Stock, as such amount may be equitably adjusted to account for any Extraordinary Stock Event involving Series D Preferred Stock. The term "Series E Price" shall mean the average stated value paid by a holder of the Series E Preferred Stock, initially \$4.44 per share of Series E Preferred Stock, as such amount may be equitably adjusted to account for any Extraordinary Stock Event involving Series E Preferred Stock. The term "Series F Price" shall mean the average stated value paid by a holder of the Series F Preferred Stock, initially \$4.44 per share of Series F Preferred Stock, as such amount may be equitably adjusted to account for any Extraordinary Stock Event involving Series F Preferred Stock.

(ii) If the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock or any class or series of Preferred Stock designated herein or in the future to be *pari passu* with the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock and Series F Preferred Stock the full liquidation preference amount to which they shall be entitled, the holders of shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock and Series F Preferred Stock shall, subject to the liquidation rights and preferences of any class or series of Preferred Stock designated in the future to be senior to the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock and Series F Preferred Stock, share ratably with the holders of any class or series of Preferred Stock designated in the future to be *pari passu* with

H00000030290 1

respect to liquidation with the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock and Series F Preferred Stock in any distribution of assets pro rata in proportion to the respective liquidation preference amounts to which they would otherwise be entitled to receive upon liquidation if all amounts payable on or with respect to said shares were paid in full.

(iii) After the payment of the liquidation preference amount shall have been made in full to the holders of the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock and Series F Preferred Stock, or funds necessary for such payment shall have been set aside by the Corporation in trust for the account of holders of the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock and Series F Preferred Stock so as to be available for such payments, the holders of the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock and Series F Preferred Stock shall be entitled to no further participation in the distribution of the assets of the Corporation, and the remaining assets of the Corporation legally available for distribution to its stockholders shall be distributed among the holders of other classes of securities of the Corporation in accordance with their respective terms.

(b) Treatment Upon Corporate Reorganization. In the event that (i) the Corporation is sold to a third party, (ii) the Corporation is merged with another corporation which is not an affiliate, or (iii) all or substantially all of the assets of the Corporation are sold to a third party (each, a "Corporate Reorganization"), and any consideration to be received by holders of shares of the Series E Preferred Stock or Series F Preferred Stock as a result of said Corporate Reorganization will be received in a form other than cash or Marketable Securities, the holders of Series E Preferred Stock and Series F Preferred Stock may elect to be paid the Series E Preferred Stock or Series F Preferred Stock liquidation preference amount, respectively, in lieu of any other consideration to be paid as a result of said Corporate Reorganization. The term "Marketable Securities" shall mean the securities of a corporation which has a public float of at least \$25 million on the New York Stock Exchange or the Nasdaq National Market.

(c) Distributions in Cash. The liquidation preference amount payable to holders of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock and Series F Preferred Stock shall in all events be paid in cash. Whenever a distribution provided for in this Section 2 is paid in property other than cash, the value of such distribution shall be the fair market value of such property as determined in good faith by the members of the Corporation's Board of Directors.

3. Voting Power. Each holder of record of the Common Stock shall have one vote for each share of Common Stock standing in such holder's name on the books of the Corporation and be entitled to vote. Except as otherwise expressly provided in Section 5 hereof, or as required by law, each holder of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock and Series F Preferred Stock shall be entitled to vote on all matters and shall be entitled to that number of votes equal to the largest number of whole shares of Common Stock into which such holder's shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock and Series F Preferred Stock would then be convertible, pursuant to the

H00000030290 1

provisions of Section 4 hereof, at the record date for the determination of stockholders entitled to vote on such matter or, if no such record date is established, at the date such vote is taken or any written consent of stockholders is solicited. Except as otherwise expressly designated in the future, as required by law, or with regard to the election of directors, the holders of shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock and Series F Preferred Stock and Common Stock, together with such other classes or series of Preferred Stock as may be designated in the future to vote collectively as a group, shall vote together as a single class on all matters. In all cases where the holders of shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock and Series F Preferred Stock have the right to vote separately as a class as provided in Section 5 hereof, or as required by law, such holders shall be entitled to one vote for each share held by them. With respect to the election of directors, the holders of Series D Preferred Stock shall be entitled to vote separately as a class to elect one director to the Corporation's Board of Directors. With respect to the election of directors, the holders of Series E Preferred Stock shall be entitled to vote separately as a class to elect (i) one director to the Corporation's Board of Directors, if the Corporation's Board of Directors has 12 or fewer members, or (ii) two directors to the Corporation's Board of Directors, if the Corporation's Board of Directors has more than 12 members. Except as may be designated in the future, the holders of Common Stock, Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock and Series F Preferred Stock shall vote together as a group to elect all other directors to the Corporation's Board of Directors. There shall be no cumulative voting by the shareholders of the Corporation.

4. Conversion Rights for Preferred Stock. The holders of the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock and Series F Preferred Stock shall have following rights with respect to the conversion of the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock and Series F Preferred Stock into shares of Common Stock:

(a) General. Subject to, and in compliance with, the provisions of this Section 4, any share of the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock and Series F Preferred Stock may, at the option of the holder, be converted at any time into fully-paid and non-assessable shares of Common Stock. The number of shares of Common Stock to which a holder of Series A Preferred Stock, Series B Preferred Stock and Series C Preferred Stock shall be entitled shall be the product obtained by multiplying the Applicable Conversion Rate (determined as provided in Section 4(b)) by the number of shares of Series A Preferred Stock, Series B Preferred Stock and Series C Preferred Stock being converted. The number of shares of Common Stock to which a holder of Series D Preferred Stock shall be entitled upon conversion shall be the product obtained by multiplying the Series D Applicable Conversion Rate (determined as provided in Section 4(b)) by the number of shares of Series D Preferred Stock being converted. The number of shares of Common Stock to which a holder of Series E Preferred Stock shall be entitled upon conversion shall be the product obtained by multiplying the Series E Applicable Conversion Rate (determined as provided in Section 4(b)) by the number of shares of Series E Preferred Stock being converted. The number of shares of Common Stock to which a holder of Series F Preferred Stock shall be entitled upon conversion shall be the product obtained by multiplying the Series F Applicable

H00000030290 1

Conversion Rate (determined as provided in Section 4(b)) by the number of shares of Series F Preferred Stock being converted.

(b) Applicable Conversion Rate. The conversion rate in effect at any time for the Series A Preferred Stock, Series B Preferred Stock and Series C Preferred Stock (the "Applicable Conversion Rate"), the Series D Preferred Stock (the "Series D Applicable Conversion Rate"), the Series E Preferred Stock (the "Series E Applicable Conversion Rate") and the Series F Preferred Stock (the "Series F Applicable Conversion Rate") shall be one (1), except that such rates shall be adjusted from time to time in accordance with this Section 4.

(c) Adjustment to Applicable Conversion Rate.

(i) Series D Preferred Stock. If the Corporation shall, while there are any shares of Series D Preferred Stock outstanding, issue or sell shares of its Common Stock or Preferred Stock for cash at a price per share less than the Series D Price, then the Series D Applicable Conversion Rate, upon each such issuance or sale, except for shares of Common Stock issued pursuant to (i) existing obligations, (ii) stock purchase, option and related plans or other employee compensation arrangements approved by the Corporation's Board of Directors, and (iii) issuances to persons with whom the Corporation has a business relationship, such as strategic partnerships, joint ventures and acquisitions approved by the Corporation's Board of Directors, shall be increased so as to be equal to an amount determined by multiplying the Series D Applicable Conversion Rate by a fraction:

(A) the numerator of which shall be (a) the number of shares of Common Stock and Preferred Stock, counted as Common Stock on an as-converted basis, outstanding immediately prior to the issuance of such additional shares of Common Stock or Preferred Stock, plus (b) the number of such additional shares of Common Stock and Preferred Stock, counted as Common Stock on an as-converted basis, so issued; and

(B) the denominator of which shall be (a) the number of shares of Common Stock and Preferred Stock, counted as Common Stock on an as-converted basis, outstanding immediately prior to the issuance of such additional shares of Preferred Stock or Common Stock, plus (b) the number of shares of Common Stock and Preferred Stock, counted as Common Stock on an as-converted basis, which the net aggregate consideration, if any, received by the Corporation for the total number of such additional shares of Common Stock or Preferred Stock so issued would purchase at the Series D Price.

(ii) Series E Preferred Stock. If the Corporation shall, while there are any shares of Series E Preferred Stock outstanding, issue or sell shares of its Common Stock or Preferred Stock, or securities convertible into or exchangeable for said securities, for cash at a price per share less than the Series E Price, then in such case the Series E Applicable Conversion Rate, upon each such issuance or sale, except for shares of Common Stock, or securities convertible into, or exchangeable for, said securities, issued pursuant to (i) existing obligations, or (ii) stock purchase, option and related plans or other employee compensation arrangements approved by the Corporation's Board of Directors, shall be increased so as to be equal to an

H00000030290 1

amount determined by multiplying the Series E Applicable Conversion Rate by a fraction, the numerator of which shall be equal to the Series E Price and the denominator of which shall be the price per share paid for Common Stock or Preferred Stock, or for securities convertible into or exchangeable for said securities. Notwithstanding the foregoing, the Series E Applicable Conversion Rate shall not be adjusted in connection with the issuance of up to 150,000 shares of Common Stock or Preferred Stock, or the issuance of securities convertible into or exchangeable for up to 150,000 shares of Common Stock or Preferred Stock, as such amount shall be equitably adjusted to account for any Extraordinary Stock Event.

(iii) Series F Preferred Stock. If the Corporation shall, while there are any shares of Series F Preferred Stock outstanding, issue or sell shares of its Common Stock or Preferred Stock, or securities convertible into or exchangeable for said securities, for cash at a price per share less than the Series F Price, then in such case the Series F Applicable Conversion Rate, upon each such issuance or sale, except for shares of Common Stock, or securities convertible into, or exchangeable for, said securities, issued pursuant to (i) existing obligations, (ii) stock purchase, option and related plans or other employee compensation arrangements approved by the Corporation's Board of Directors, or (iii) issuances to persons with whom the Corporation has a business relationship, such as strategic partnerships, joint ventures and acquisitions approved by the Corporation's Board of Directors, shall be increased so as to be equal to an amount determined by multiplying the Series F Applicable Conversion Rate by a fraction, the numerator of which shall be equal to the Series F Price and the denominator of which shall be the price per share paid for Common Stock or Preferred Stock, or for securities convertible into or exchangeable for said securities.

(iv) Upon Extraordinary Stock Event. Upon the happening of an Extraordinary Stock Event (as hereinafter defined), the Applicable Conversion Rate, Series D Applicable Conversion Rate, Series E Applicable Conversion Rate and Series F Applicable Conversion Rate shall, simultaneously with the happening of such Extraordinary Stock Event, be adjusted by multiplying the then effective Applicable Conversion Rate, Series D Applicable Conversion Rate, Series E Applicable Conversion Rate and Series F Applicable Conversion Rate by a fraction, the numerator of which shall be the number of shares of Common and Preferred Stock outstanding immediately after such Extraordinary Stock Event and the denominator of which shall be the number of shares of Common and Preferred Stock outstanding immediately prior to such Extraordinary Stock Event, and the products so obtained shall thereafter be the Applicable Conversion Rate, Series D Applicable Conversion Rate, Series E Applicable Conversion Rate and Series F Applicable Conversion Rate, respectively. The Applicable Conversion Rate, Series D Applicable Conversion Rate, Series E Applicable Conversion Rate and Series F Applicable Conversion Rate shall be readjusted in the same manner upon the happening of any successive Extraordinary Stock Event or Events. "Extraordinary Stock Event" shall mean (i) the issue of additional shares of Common Stock as a dividend or other distribution on outstanding Common Stock or on any class or series of Preferred Stock, (ii) a subdivision of outstanding shares of Common or Preferred Stock into a greater number of shares of Common or Preferred Stock, or (iii) a combination of outstanding shares of the Common or Preferred Stock into a smaller number of shares of Common or Preferred Stock.

(d) Automatic Conversion. All Series A Preferred Stock, Series B Preferred Stock and Series C Preferred Stock shall automatically convert into Common Stock at the

H00000030290 1

Applicable Conversion Rate in the event of a Public Offering. All Series D Preferred Stock shall automatically convert into Common Stock at the Series D Applicable Conversion Rate upon the event of a Public Offering with gross proceeds of at least \$30 million. All Series E Preferred Stock and Series F Preferred Stock shall automatically convert into Common Stock at the Series E Applicable Conversion Rate or Series F Applicable Conversion Rate, respectively, upon (i) the event of a Public Offering with a public offering price of at least \$10.00 per share and gross proceeds of at least \$15 million, or (ii) a sale of the Corporation for cash or Marketable Securities. For purposes hereof, the term "Public Offering" shall mean an underwritten public offering covering the primary sale of Common Stock to the public pursuant to an effective registration statement under the Securities Act of 1933, as amended.

(e) Capital Reorganization or Reclassification. If the Common Stock issuable upon the conversion of the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock and Series F Preferred Stock shall be changed into the same or different number of shares of any class or classes of stock, whether by capital reorganization, reclassification or otherwise (other than a subdivision or combination of shares or stock dividend provided for elsewhere in this Section 4 or by a Reorganization), then and in each such event, the holder of each share of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock and Series F Preferred Stock shall have the right thereafter to convert such share into the kind and amount of shares of stock and other securities and property receivable upon such capital reorganization, reclassification or other change by holders of the number of shares of Common Stock into which such shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock or Series F Preferred Stock might have been converted immediately prior to such capital reorganization, reclassification or other change.

(f) Upon Initial Public Offering. Notwithstanding anything to the contrary contained herein, (i) the Series E-2 Preferred Stock shall not be convertible into Common Stock until the earlier of (A) a Corporate Reorganization or (B) the Corporation's initial Public Offering, and (ii) in the event of a Public Offering, in lieu of any other Series E Applicable Conversion Rate, each share of Series E-2 Preferred Stock shall be convertible into that number of shares of Common Stock equal to a fraction, the numerator of which is \$6.00, as such amount shall be equitably adjusted to account for any Extraordinary Stock Event, and the denominator of which is sixty percent (60%) of the initial public offering price of the Common Stock in such Public Offering. Notwithstanding anything to the contrary contained herein, in the event of an initial Public Offering with a public offering price of less than \$10.00 per share, as such amount shall be equitably adjusted to account for any Extraordinary Stock Event, and in lieu of any other Series F Applicable Conversion Rate, each share of Series F Preferred Stock shall be convertible into that number of shares of Common Stock equal to a fraction, the numerator of which is \$6.00, as such amount shall be equitably adjusted to account for any Extraordinary Stock Event, and the denominator of which is sixty percent (60%) of the initial public offering price of the Common Stock in such Public Offering.

(g) Exercise of Conversion Privilege. To exercise its conversion privilege, a holder of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock or Series F Preferred Stock shall surrender the certificate or certificates representing the shares being converted to the Corporation at its

H00000030290 1

principal office, and shall give written notice to the Corporation at that office that such holder elects to convert such shares. Such notice shall also state the name or names (with address or addresses) in which the certificate or certificates for shares of Common Stock issuable upon such conversion shall be issued. The certificate or certificates for shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock or Series F Preferred Stock surrendered for conversion shall be accompanied by proper assignment thereof to the Corporation or in blank. The date when such written notice is received by the Corporation, together with the certificate or certificates representing the shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock or Series F Preferred Stock being converted, shall be the "Conversion Date." As promptly as practicable after the Conversion Date, the Corporation shall issue and shall deliver to the holder of the shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock or Series F Preferred Stock being converted, or on its written order, such certificate or certificates as it may request for the number of whole shares of Common Stock issuable upon the conversion of such shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock or Series F Preferred Stock in accordance with the provisions of this Section 4, and cash, as provided in Section 4(h), in respect of any fraction of a share of Common Stock issuable upon such conversion. Such conversion shall be deemed to have been effected immediately prior to the close of business on the Conversion Date, and at such time the rights of the holder as holder of the converted shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock or Series F Preferred Stock shall cease and the person or persons in whose name or names any certificate or certificates for shares of Common Stock shall be issuable upon such conversion shall be deemed to have become the holder or holders of record of the shares of Common Stock represented thereby. The Corporation shall pay any taxes payable with respect to the issuance of Common Stock upon conversion of the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock and Series F Preferred Stock, other than any taxes payable with respect to income by the holders thereof.

(h) Cash in Lieu of Fractional Shares. The Corporation may, if it so elects, issue fractional shares of Common Stock or scrip representing fractional shares upon the conversion of shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock or Series F Preferred Stock. If the Corporation does not elect to issue fractional shares, the Corporation shall pay to the holder of the shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock or Series F Preferred Stock which were converted a cash adjustment in respect of such fractional shares in an amount equal to the same fraction of the market price per share of the Common Stock (as determined in a reasonable manner prescribed by the Board of Directors) at the close of business on the Conversion Date. The determination as to whether or not any fractional shares are issuable shall be based upon the total number of shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock or Series F Preferred Stock being converted at any one time by any holder thereof, not upon each share of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock or Series F Preferred Stock being converted.

H00000030290 1

(i) Partial Conversion. In the event some but not all of the shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock or Series F Preferred Stock represented by a certificate or certificates surrendered by a holder are converted, the Corporation shall execute and deliver to or on the order of the holder, at the expense of the Corporation, a new certificate representing the number of shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock or Series F Preferred Stock which were not converted.

(j) Reservation of Common Stock. The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of the shares of the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock or Series F Preferred Stock, 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 Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock and Series F Preferred Stock, and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock and Series F Preferred Stock, the Corporation shall take such corporate action as may be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purpose.

5. Restrictions and Limitations.

(a) General. The Corporation shall not amend its articles of incorporation without the approval, by vote or written consent, by the holders of at least a majority of the then outstanding shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock or Series F Preferred Stock, respectively, each voting as a separate class, if such amendment would amend any of the rights, preferences, privileges or limitations provided for herein for the benefit of any shares of such class of Preferred Stock. Without limiting the generality of the preceding sentence, the Corporation shall not amend its articles of incorporation without the approval by the holders of at least a majority, and in the case of the Series E Preferred Stock and Series F Preferred Stock a two-thirds majority, of the affected class or classes of Preferred Stock, each voting as a separate class, if such amendment would:

(i) reduce the liquidation preference amount payable to the holders of said class of Preferred Stock upon the voluntary or involuntary liquidation, dissolution or winding up of the Corporation, or change the relative seniority of the liquidation preferences of the holders of said class of Preferred Stock to the rights upon liquidation of the holders of other capital stock of the Corporation;

(ii) cancel or modify the conversion rights of the holders of said class of Preferred Stock provided for in Section 4 herein;

H00000030290 1

(iii) cancel or modify the rights of the holders of said class of Preferred Stock provided for in this Section 5.

(b) Senior Securities. The Corporation shall not amend its certificate of incorporation without the approval, by vote or written consent, of the holders of at least a two-thirds majority of the then outstanding shares of Series E Preferred Stock or Series F Preferred Stock, respectively, if such amendment would authorize the issuance of any equity security of the Corporation senior to the Series E Preferred Stock or Series F Preferred Stock, respectively.

6. Notices of Record Date. In the event of any taking by the Corporation 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 any right to subscribe for, purchase or otherwise acquire any shares of stock of any class or any other securities or property, or to receive any other right, or

(a) any capital reorganization of the Corporation, any reclassification or recapitalization of the capital stock of the Corporation, any merger of the Corporation, or any transfer of all or substantially all of the assets of the Corporation to any other corporation, or any other entity or person, or

(b) any voluntary or involuntary dissolution, liquidation or winding up of the Corporation,

then and in each such event the Corporation shall mail or cause to be mailed to each holder of the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock and Series F Preferred Stock a notice specifying (i) the date on which any such record is to be taken for the purpose of such distribution or right and a description of such distribution or right, (ii) the date on which any such reorganization, reclassification, recapitalization, transfer, merger, dissolution, liquidation or winding up is expected to become effective and (iii) the time, if any, that is to be fixed, as to when the holders of record of the 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 reorganization, reclassification, recapitalization, transfer, merger, dissolution, liquidation or winding up. Such notice shall be mailed at least ten (10) business days prior to the date specified in such notice on which such action is to be taken.

7. Dividends. Subject to the preferential dividend rights applicable to shares of any future series of Preferred Stock so designated, the holders of shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series E Stock and Series F Preferred Stock, together with any future series of Preferred Stock so designated, shall be *pari passu* with the holders of Common Stock and be entitled to receive such dividends as may be declared by the Board of Directors.

8. Optional Redemption by Certain Holders of Preferred Stock.

(a) At the election of any holder of the then outstanding shares of Series D Preferred Stock, the Corporation shall, to the extent it may do so under applicable law, redeem any shares of Series D Preferred Stock as may be outstanding on January 1, 2003 (the "Series D

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Redemption Date") at one hundred fifty percent (150%) of the Series D Price, initially \$4.50 per share of Series D Preferred Stock. In the event shares of Series D Preferred Stock requested to be redeemed after the Redemption Date are not redeemed because of a prohibition under applicable law, such shares shall be redeemed as soon as such prohibition no longer exists.

(b) At the election of any holders of the then outstanding shares of Series E Preferred Stock and Series F Preferred Stock, respectively, the Corporation shall, to the extent it may do so under applicable law, redeem up to (i) fifty percent (50%) of any shares of Series E Preferred Stock and Series F Preferred Stock, respectively, as may be outstanding on July 19, 2005, (ii) seventy-five percent (75%) of any shares of Series E Preferred Stock and Series F Preferred Stock, respectively, as may be outstanding on July 17, 2006, and (iii) any such shares as may be outstanding on July 16, 2007 (each, a "Series E Redemption Date" or "Series F Redemption Date", respectively) at the Series E Price and Series F Price, respectively. In the event shares of Series E Preferred Stock or Series F Preferred Stock requested to be redeemed after a Series E Redemption Date or Series F Redemption Date, respectively, are not redeemed because of a prohibition under applicable law, such shares shall be redeemed as soon as such prohibition no longer exists. Shares of Series E Preferred Stock and Series F Preferred Stock redeemed in accordance with the provisions of this Section 8(b) shall be redeemed ratably in proportion to the number of shares of Series E Preferred Stock and Series F Preferred Stock held by each holder desiring that its shares of Series E Preferred Stock or Series F Preferred Stock be redeemed.


(c) In the event that any holder of the Series D Preferred Stock, Series E Preferred Stock or Series F Preferred Stock, respectively, does not elect to have its shares of Preferred Stock redeemed pursuant to this Section 8, said shares of Series D Preferred Stock, Series E Preferred Stock and Series F Preferred Stock shall remain outstanding and subject to the rights and preferences contained herein.

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IN WITNESS WHEREOF, the undersigned has executed these Articles of Amendment to Amended and Restated Articles of Incorporation this 5th day of June, 2000.


Name: Fred A. SCHWARTZ
Title: Asst. Secretary