

Division of Corporations

Page 1 of 2

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Florida Department of State

Division of Corporations

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BASIC AMENDMENT

NOVITEL.COM COMMUNICATIONS CORPORATION

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**ARTICLES OF AMENDMENT
TO THE
ARTICLES OF INCORPORATION
OF**

NOVITEL.COM COMMUNICATIONS CORPORATION

Pursuant to Section 607.1001 of the Florida Business Corporation Act, NOVITEL.COM COMMUNICATIONS CORPORATION (the "Corporation") hereby adopts the following Amendments to its Articles of Incorporation, as amended (the "Amendments"):

1. The name of this corporation is **NOVITEL.COM COMMUNICATIONS CORPORATION**.
2. The Amendments set forth below were duly adopted by unanimous written consent of the Board of Directors and Shareholders of the Corporation dated October 6, 2000.
3. The Corporation's Articles of Incorporation shall be amended by replacing Article III in its entirety with the following:

ARTICLE III CAPITAL STOCK

A. Classes of Stock. The Corporation is authorized to issue two classes of stock to be designated, respectively, "Common Stock" and "Preferred Stock." The total number of shares of Common Stock which the Corporation is authorized to issue is 50,000,000 shares, each with a par value of \$0.0001 per share. The Corporation is authorized to issue 10,000,000 shares of Preferred Stock of different series as described below.

B. Rights, Preferences and Restrictions of Preferred Stock. The Preferred Stock authorized by these Articles of Incorporation may be issued from time to time in one or more series with the rights, preferences and designations for each such series of Preferred Stock to be determined by the Corporation's Board of Directors. The first series of Preferred Stock shall be designated "Series A Preferred Stock" and shall consist of Three Million Three Hundred Thirty-seven Thousand Five Hundred (3,337,500) shares. The rights, preferences, privileges, and restrictions granted to and imposed on the Series A Preferred Stock are as set forth below.

1. Dividend Provisions. The Series A Preferred Stock shall be entitled to participate in any stock, cash or other dividends declared and stock splits and recapitalizations as if such Preferred Stock had been converted into Common Stock prior to the record date for such dividend.

2. Liquidation.

a. Preference. In the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, the holders of the Series A Preferred Stock shall be entitled to receive, prior and in preference to any distribution of any of the assets of the Corporation to the holders of Common Stock by reason of their ownership thereof, an

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amount per share equal to the greater of (i) \$0.0899 (appropriately adjusted to reflect subsequent stock splits, stock dividends, combinations or other recapitalizations) for each share of Series A Preferred Stock then held by them, plus declared but unpaid dividends (appropriately adjusted to reflect subsequent stock splits, stock dividends, combinations or other recapitalizations); or (ii) the amount that each holder of a share of Series A Preferred Stock would receive if all shares of Series A Preferred Stock were converted to Common Stock immediately prior to the distribution resulting from such liquidation, dissolution or winding up and such distribution were distributed among the holders of the Common Stock pro rata based on the number of shares of Common Stock held by each.

b. Certain Acquisitions.

i. Deemed Liquidation. For purposes of this Section 2, a liquidation, dissolution or winding up of the Corporation shall be deemed to occur if the Corporation shall sell, convey, or otherwise dispose of all or substantially all of its property or business or merge into or consolidate with any other corporation (other than a wholly-owned subsidiary corporation) in such a manner that more than fifty percent (50%) of the voting power of the Corporation is transferred to persons who were not shareholders in the Corporation immediately before such transaction(s)

ii. Valuation of Consideration. In the event of a deemed liquidation as described in Section 2.b.i. above, if all or part of the consideration received by the Corporation is other than cash, the value of such other consideration will be deemed its fair market value and that fair market value will be used to determine the amount of any preferential payment to which the holders of the Series A Preferred Shares shall be entitled under Section 2.a. above (if any). Any securities shall be valued as follows:

(1) The method of valuation of securities not subject to an investment letter or other similar restrictions on free marketability:

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

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

(c) If there is no active public market, the value shall be the fair market value thereof, as mutually determined by the Corporation and the holders of at least a majority of the voting power of all then outstanding shares of Preferred Stock, and if not so mutually determined, then the Corporation and the holders of at least a majority of the voting power of all then outstanding shares of Preferred A Stock will choose an independent third party to determine the appropriate value.

(2) The method of valuation of securities subject to an 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 Section 2.b.ii.(1) to reflect the approximate fair market value of the securities, as mutually determined by the Corporation and the holders of at least a majority of the voting power of all then outstanding shares of Preferred Stock, and if not so mutually determined, then the Corporation and the holders of at least a majority of the voting power of all then outstanding shares of Preferred Stock will choose an independent third party to determine the appropriate value.

iii. Notice of Transaction. The Corporation shall give each holder of record of Preferred Stock written notice of such impending transaction not later than fifteen (15) days prior to the stockholders' meeting called to approve such transaction, or fifteen (15) days prior to the closing of such transaction, whichever is earlier, and shall also notify such holders in writing of the final approval of such transaction. The first of such notices shall describe the material terms and conditions of the impending transaction and the provisions of this Section 2, and the Corporation shall thereafter give such holders prompt notice of any material changes. The transaction shall in no event take place sooner than fifteen (15) days after the Corporation has given the first notice provided for herein or sooner than ten (10) days after the Corporation has given notice of any material changes provided for herein; *provided, however*, that such periods may be shortened upon the written consent of the holders of Series A Preferred Stock that are entitled to such notice rights or similar notice rights and that represent at least a majority of the voting power of all then outstanding shares of such Series A Preferred Stock.

iv. Effect of Noncompliance. In the event the requirements of this Section 2.b. are not complied with, the Corporation shall forthwith either cause the closing of the transaction to be postponed until such requirements have been complied with, or cancel such transaction, in which event the rights, preferences and privileges of the holders of the Series A Preferred Stock shall revert to and be the same as such rights, preferences and privileges existing immediately prior to the date of the first notice referred to in Section 2.b.(iii) hereof.

3. Redemption. Unless otherwise provided for in an agreement between the Corporation and the holders of the Preferred Shares, the Preferred Stock is not redeemable.

4. Conversion. The holders of the Series A Preferred Stock shall have conversion rights as follows (the "Conversion Rights"):

a. Right to Convert. Each share of Series A Preferred Stock shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share, at the office of the Corporation or any transfer agent for such stock, into a like number of fully paid and nonassessable shares of Common Stock

b. Mechanics of Conversion. Before any holder of Series A Preferred Stock shall be entitled to convert the same into shares of Common Stock, it shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Corporation or of any transfer agent for such series of Preferred Stock, and shall give written notice to the Corporation at its principal corporate office, of the election to convert the same and shall state therein the name or names in which the certificate or certificates for shares of Common Stock are to be

issued. The Corporation shall, as soon as practicable thereafter, issue and deliver at such office to such holder of the Series A Preferred Stock, or to the nominee or nominees of such holder, a certificate or certificates for the number of shares of Common Stock to which such holder shall be entitled as aforesaid. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of such series of Preferred Stock to be converted, and the person or persons entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock as of such date. If the conversion is in connection with an underwritten offering of securities registered pursuant to the Securities Act the conversion may, at the option of any holder tendering such Preferred Stock for conversion, be conditioned upon the closing with the underwriters of the sale of securities pursuant to such offering, in which event the person(s) entitled to receive Common Stock upon conversion of such Preferred Stock shall not be deemed to have converted such Preferred Stock until immediately prior to the closing of such sale of securities.

c. No Impairment. The Corporation will not, without the consent of the holders of at least a majority of shares of Series A Preferred Stock, by amendment of its Articles of Incorporation or through any reorganization, recapitalization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Corporation, but will at all times in good faith assist in the carrying out of all the provisions of this Section 4 and in the taking of all such action as may be necessary or appropriate in order to protect the Conversion Rights of the holders of Preferred Stock against impairment.

d. No Fractional Shares and Certificate as to Adjustments. No fractional shares shall be issued on the conversion of any share or shares of the Series A Preferred Stock. All shares of Common Stock (including fractions thereof) issuable upon conversion of more than one share of Series A Preferred Stock 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 Corporation shall, in lieu of issuing any fractional share, pay cash equal to the product of such fraction multiplied by the Common Stock's fair market value (as determined by the Corporation's Board of Directors) on the date of conversion.

e. Notices of Record Date. In the event of any taking by this 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, 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, this Corporation shall mail to each holder of Series A Preferred Stock, at least 20 days prior to the date on which any such record is to be taken for the purpose of such dividend, distribution or right (the "Record Date"), a notice specifying the Record Date and the amount and character of such dividend, distribution or right.

f. Reservation of Stock Issuable Upon Conversion. 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, 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; 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, in addition to such other remedies as shall be available to the holder of such Series A Preferred Stock, this Corporation 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 purposes, including, without limitation, engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to these Articles.

g. Voting Rights. Except as otherwise required by law, the holder of each share of Series A Preferred Stock shall have the right to one vote for each share of Common Stock into which such Preferred Stock could then be converted, and with respect to such vote, such holder shall have full voting rights and powers equal to the voting rights and powers of the holders of Common Stock, and shall be entitled, notwithstanding any provision hereof, to notice of any stockholders meeting in accordance with the Bylaws of the Corporation, and shall be entitled to vote, together with holders of Common Stock, with respect to any question upon which holders of Common Stock have the right to vote. Fractional votes shall not, however, be permitted and any fractional voting rights available on an as-converted basis (after aggregating all shares into which shares of Series A Preferred Stock held by each holder could be converted) shall be rounded to the nearest whole number (with one-half being rounded upward).

5. Protective Provisions. This Corporation shall not without first obtaining the approval (by vote or written consent, as provided by law) of the holders all of the then outstanding shares of Series A Preferred Stock:

a. Amend the Articles of Incorporation or Bylaws of the Corporation or any of its subsidiaries, in any way which adversely affects the holders of the Series A Preferred Stock, the approval of all of the holders of the Series A Preferred Stock shall be required;

b. Change the rights or terms of the Series A Preferred Stock;

6. Status of Converted Stock. In the event any shares of Series A Preferred Stock shall be converted pursuant to Section 4 hereof, the shares so converted shall be cancelled and shall not be issuable by the Corporation.

7. Preemptive Rights. The holders of the Series A Preferred Stock shall be entitled to acquire proportional amounts of the Corporation's capital stock in any future offering of Common Stock, Preferred Stock, options, warrants, or any other rights to acquire shares of capital stock of the Company to maintain pro-rata ownership of the Company's capital stock on the same terms and conditions as other investors in any such future offering. This Section shall not apply to the grant of Stock or Stock Options in connection with any employee stock option or incentive plan adopted by the Board of Directors, Stock or option grants to officers, directors or employees in connection with their services or Stock or Securities to be granted in connection with any acquisition, reorganization, stock dividend, or stock split as approved by the Board of Directors.

C. Common Stock.

1. Dividend Rights. Subject to the prior rights of holders of all classes of stock at the time outstanding having prior rights as to dividends, the holders of the Common Stock shall be entitled to receive, when, as and if declared by the Board of Directors, out of any assets of the Corporation legally available therefor, such dividends as may be declared from time to time by the Board of Directors.

2. Liquidation Rights. Upon the liquidation, dissolution or winding up of the Corporation, the assets of the Corporation shall be distributed as provided in Section 2.b of this Article.

3. Voting Rights. The holder of each share of Common Stock shall have the right to one vote, and shall be entitled to notice of any stockholders' meeting in accordance with the Bylaws of the Corporation, and shall be entitled to vote upon such matters and in such manner as may be provided by law.

IN WITNESS WHEREOF, the Corporation has caused this Articles of Amendment to the Articles of Incorporation to be executed as of October 6, 2000

NOVITEL.COM COMMUNICATIONS
CORPORATION

By: 

Name: MAURICE LOPEZ

Title: CEO & President