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DIVISION OF CORPORATIONS

BASIC AMENDMENT

EANGLER, INC.

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ARTICLES OF AMENDMENT

eAngler, Inc. (the "Corporation"), a corporation organized under the laws of Florida, hereby amends its Articles of Incorporation as follows:

1. The name of the Corporation is eAngler, Inc. The date of filing of the Corporation's original Articles of Incorporation with the Secretary of State of Florida was July 29, 1999, and the date of filing of the Corporation's Amended and Restated Articles of Incorporation with the Secretary of State of Florida was April 21, 2000 (the "Amended and Restated Articles").

2. These Articles of Amendment (the "Amended Articles") of the Corporation have been adopted in accordance with Section 607.0602 of the Florida Business Corporation Act.

3. These Amended Articles were duly adopted at a duly called meeting of the Corporation's board of directors on July 21, 2003 and on September 4, 2003 by written consent of holders of at least two-thirds of the outstanding shares of the Corporation's Series A Preferred Stock, constituting a sufficient number of votes to approve the amendment.

4. Except as otherwise provided in these Articles of Amendment, the Amended and Restated Articles of Incorporation filed with the Secretary of State of Florida on April 21, 2000, are hereby ratified and confirmed.

5. Article V(b) is hereby amended and restated as follows:

(b) Except as provided in (i) the Stockholders' and Rights Agreement entered into on or about the date of the Amended and Restated Articles, among the Corporation and the shareholders and other parties named therein, as amended from time to time, a copy of which is on file and available for inspection at the offices of the Corporation (the "Stockholders' Agreement") and (ii) the Stockholders' and Rights Agreement II entered into on or about the date of the Amendment to the Amended and Restated Articles, among the Corporation and the shareholders and other parties named therein, as amended from time to time, a copy of which is on file and available for inspection at the offices of the Corporation (the "Stockholders' Agreement II"), no shareholder shall be entitled as a matter of right to purchase or subscribe for any unissued shares of the Corporation whether now or hereafter authorized or whether of a class now existing or of a class hereafter created, or to purchase or subscribe for any bonds, certificates of indebtedness, debentures, or other obligations convertible into shares of the Corporation.

6. Part B, Section 1 of Article V is hereby amended and restated as follows:

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Designation

The initial series of Preferred Stock shall be designated and known as "Series A Preferred Stock." The number of authorized shares constituting such series shall be one million six hundred seventy-four thousand nine hundred (1,674,900). Two additional series of Preferred Stock are designated and known as "Series B Preferred Stock" and as "Series C Preferred Stock." The Series B Preferred Stock and the Series C Preferred Stock are collectively known as "Series B & C Preferred Stock." The number of authorized shares constituting each of the Series B Preferred Stock and the Series C Preferred Stock shall be three million three hundred thirty-three thousand three hundred thirty-four (3,333,334).

7. Part B, Section 2 of Article V is hereby amended and restated as follows:

Section 2ALiquidation Rights While Series A Preferred Stock Outstanding

The following provisions in this Section 2A of Article V, Part B shall apply only so long as shares of Series A Preferred Stock are outstanding:

(a) Liquidation. In the event of any liquidation, dissolution or winding up of the Corporation, the holders of the Corporation's capital stock shall be entitled to receive distributions from the Corporation's assets and surplus funds as follows:

(i) Series A Preferred Stock. Subject to paragraph (iv) below, each holder of shares of Series A Preferred Stock shall be entitled to receive upon such liquidation, dissolution or winding up, and prior and in preference to any distribution of any of the assets or surplus funds of the Corporation to the holders of the Common Stock and any other series of Preferred Stock which is junior to the Series A Preferred Stock, by reason of his, her or its ownership thereof, an amount per share of the Series A Preferred Stock equal to the Series A Liquidation Amount (as defined below). As used herein, "Series A Liquidation Amount" shall mean an amount equal to \$5.665 per share, plus accrued and unpaid dividends.

(ii) Common Stock. Subject to paragraph (iv) below, after the payment to the holders of the Series A Preferred Stock of the Series A Liquidation Amount, each holder of shares of Common Stock shall be entitled to receive, by reason of his, her or its ownership thereof, an amount per share of the Common Stock equal to \$2,500,000 divided by the number of shares of Common Stock then outstanding.

(iii) Remaining Assets and Funds. Subject to paragraph (iv) below, after the payment to the holders of the Series A Preferred Stock of the Series A Liquidation Amount, and then to the holders of the Common Stock of the amount

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determined pursuant to paragraph (ii) above, any remaining assets and surplus funds of the Corporation shall be distributed to the holders of the Series A Preferred Stock and the Common Stock ratably on an as-converted basis.

(iv) Straight Pro Rata Distribution. Notwithstanding the foregoing paragraphs (i) through (iii), in the event that the amount that the holders the Series A Preferred Stock would receive on an as converted basis in connection with such liquidation, dissolution or winding up if all assets and surplus funds were distributed to the holders of the Series A Preferred Stock and the Common Stock ratably on an as converted basis (without regard to the terms of paragraphs (i) through (iii) above) would be at least \$17.00 per share of Series A Preferred Stock (as adjusted for stock splits, stock combinations, recapitalizations and other similar events affecting the Series A Preferred Stock), then in lieu of making distributions in accordance with the terms of paragraphs (i) through (iii) above, all assets and surplus funds shall be distributed to the holders of the Series A Preferred Stock and the Common Stock ratably on an as converted basis.

(b) Pro Rata Distribution. If the assets or surplus funds to be distributed to the holders of (i) the Series A Preferred Stock under Part B, Section 2A(a)(i) of this Article V and (ii) the holders of any other series of Preferred Stock ranking on a parity with the Series A Preferred Stock are insufficient to permit the payment to such holders of their full preferential amount, the assets and surplus funds legally available for distribution shall be distributed ratably among (i) the holders of the Series A Preferred Stock (to the extent provided in Part B, Section 2A(a)(i) of this Article V) and (ii) the holders of such other series of Preferred Stock in proportion to the full preferential amount each such holder is otherwise entitled to receive. If the assets or surplus funds to be distributed to the holders of the Common Stock under Part B, Section 2A(a)(ii) of this Article V are insufficient to permit the payment to such holders of \$2,500,000 in the aggregate pursuant to such Section 2A(a)(ii), then the assets and surplus funds legally available for distribution under such Section 2A(a)(ii) shall be distributed ratably among the holders of the Common Stock (to the extent provided in Part B, Section 2A(a)(ii) of this Article V).

(c) Series A Preferred Stock Priority. All of the preferential amounts to be paid to the holders of (i) the Series A Preferred Stock under this Part B, Section 2A of this Article V and (ii) the holders of any other series of Preferred Stock ranking on a parity with the Series A Preferred Stock shall be paid or set apart for payment before the payment or setting apart for payment of any amount for, or the distribution of any assets or surplus funds of the Corporation to, the holders of the Common Stock and any other series of Preferred Stock which is junior to the Series A Preferred Stock in connection with such liquidation, dissolution or winding up.

(d) Consolidation, Merger, Sale of Assets. A consolidation or merger of the Corporation with or into another corporation or entity, or a conveyance of all or substantially all of the assets of the Corporation, shall be regarded as a liquidation,

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dissolution or winding up of the affairs of the Corporation within the meaning of Part B, Section 2A(a) of this Article V, unless the holders of voting securities of the Corporation own directly or indirectly more than fifty percent (50%) of the voting power to elect directors of the consolidated, surviving or acquiring corporation or entity. Any securities to be delivered to the holders of the Series A Preferred Stock upon the closing of any such consolidation, merger, sale or transfer shall be valued as follows:

2A. For securities not subject to restrictions on transfer under an investment letter or other similar restrictions on free marketability:

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

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

(iii) 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 Series A Preferred Stock which would be entitled to receive such securities or the same type of securities.

2B. The method of valuation of securities subject to an investment letter or other restrictions on free marketability shall be to make an appropriate discount from the market value determined as above in Part B, Section 2(d)(2A) of this Article V to reflect the approximate 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 Series A Preferred Stock which would be entitled to receive such securities or the same type of securities.

2C. The fair market value of any other assets or property shall be determined by mutual agreement of the Corporation and the holders of at least a majority of the voting power of all then outstanding shares of Series A Preferred Stock which would be entitled to receive such assets or property.

8. Immediately after Section 2A of Article V, Part B, the following Section 2B is added as follows:

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Section 2B**Liquidation Rights While No Series A Preferred Stock Outstanding**

The following provisions in this Section 2B of Article V, Part B shall apply at all times that no shares of Series A Preferred Stock are outstanding:

(a) Liquidation. In the event of any liquidation, dissolution or winding up of the Corporation, the holders of the Corporation's capital stock shall be entitled to receive distributions from the Corporation's assets and surplus funds as follows:

(i) Series B & C Preferred Stock.

(A) Each holder of shares of Series B & C Preferred Stock shall be entitled to receive upon such liquidation, dissolution or winding up, and prior and in preference to any distribution of any of the assets or surplus funds of the Corporation to the holders of the Common Stock and any other series of Preferred Stock which is junior to the Series B & C Preferred Stock, by reason of his, her or its ownership thereof, an amount per share of the Series B & C Preferred Stock equal to the Series B & C Liquidation Amount (as defined below). As used in these Amended and Restated Articles, "Series B & C Liquidation Amount" shall mean an amount equal to \$.45 per share of Series B & C Preferred Stock, plus accrued and unpaid dividends on the Series B & C Preferred Stock.

(B) After payment of the Series B & C Liquidation Amount, each holder of Series B Preferred Stock shall be entitled to an amount per share of Series B Preferred Stock equal to the Series B Liquidation Amount (as defined below). As used in these Amended and Restated Articles, "Series B Liquidation Amount" shall mean an amount equal to \$3.346 per share of Series B Preferred Stock.

(ii) Common Stock. After the payment of the Series B & C Liquidation Amount and payment of the Series B Liquidation Amount, each holder of shares of Common Stock shall be entitled to receive, by reason of his, her or its ownership thereof, an amount per share of the Common Stock equal to \$2,500,000 divided by the number of shares of Common Stock then outstanding (the "Common Stock Liquidation Amount").

(iii) Remaining Assets and Funds. After the payments of the Series B & C Liquidation Amount, the Series B Liquidation Amount, and the Common Stock Liquidation Amount, any remaining assets and surplus funds of the Corporation shall be distributed to the holders of the Series B & C Preferred Stock and the Common Stock ratably on an as-converted basis.

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(b) Pro Rata Distribution.

(i) If the assets or surplus funds to be distributed to the holders of (A) the Series B & C Preferred Stock under Part B, Section 2B(a)(i)(A) of this Article V (regarding the payment of the Series B & C Liquidation Amount) and (B) the holders of any other series of Preferred Stock ranking on a parity with the Series B & C Preferred Stock with respect to the payment of the Series B & C Liquidation Amount are insufficient to permit the payment to such holders of their full preferential amount, the assets and surplus funds legally available for distribution shall be distributed ratably among (I) the holders of the Series B & C Preferred Stock (to the extent provided in Part B, Section 2B(a)(i)(A) of this Article V) and (II) the holders of such other series of Preferred Stock in proportion to the full preferential amount each such holder is otherwise entitled to receive.

(ii) If the assets or surplus funds to be distributed to the holders of (A) the Series B Preferred Stock under Part B, Section 2B(a)(i)(B) of this Article V (regarding the payment of the Series B Liquidation Amount) and (B) the holders of any other series of Preferred Stock ranking on a parity with the Series B Preferred Stock with respect to the payment of the Series B Liquidation Amount are insufficient to permit the payment to such holders of their full preferential amount, the assets and surplus funds legally available for distribution shall be distributed ratably among (I) the holders of the Series B Preferred Stock (to the extent provided in Part B, Section 2B(a)(i)(B) of this Article V) and (II) the holders of such other series of Preferred Stock in proportion to the full preferential amount each such holder is otherwise entitled to receive.

(iii) If the assets or surplus funds to be distributed to the holders of the Common Stock under Part B, Section 2B(a)(ii) of this Article V are insufficient to permit the payment to such holders of \$2,500,000 in the aggregate pursuant to such Section 2B(a)(ii), then the assets and surplus funds legally available for distribution under such Section 2B(a)(ii) shall be distributed ratably among the holders of the Common Stock (to the extent provided in Part B, Section 2B(a)(ii) of this Article V).

(c) Series B & C Preferred Stock Priority. All of the preferential amounts to be paid to the holders of (i) the Series B & C Preferred Stock under this Section 2B of Article V, Part B (i.e., the Series B & C Liquidation Amount) and (ii) the holders of any other series of Preferred Stock ranking on a parity with the Series B & C Preferred Stock with respect to the Series B & C Liquidation Amount shall be paid or set apart for payment before the payment or setting apart for payment of any amount for, or the distribution of any assets or surplus funds of the Corporation to, the holders of the Common Stock and any other series of Preferred Stock which is junior to the Series B & C Preferred Stock (with respect to the Series B & C Liquidation Amount) in connection with such liquidation, dissolution or winding up.

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(d) Series B Preferred Stock Priority. All of the preferential amounts to be paid to the holders of (i) the Series B Preferred Stock under this Section 2B of Article V, Part B (i.e., the Series B Liquidation Amount) and (ii) the holders of any other series of Preferred Stock ranking on a parity with the Series B Preferred Stock with respect to the Series B Liquidation Amount shall be paid or set apart for payment before the payment or setting apart for payment of any amount for, or the distribution of any assets or surplus funds of the Corporation to, the holders of the Common Stock and any other series of Preferred Stock which is junior to the Series B Preferred Stock (with respect to the Series B Liquidation Amount) in connection with such liquidation, dissolution or winding up.

(e) Consolidation, Merger, Sale of Assets. A consolidation or merger of the Corporation with or into another corporation or entity, or a conveyance of all or substantially all of the assets of the Corporation, shall be regarded as a liquidation, dissolution or winding up of the affairs of the Corporation within the meaning of Section 2B(a) of Article V, Part B, unless the holders of voting securities of the Corporation own directly or indirectly more than fifty percent (50%) of the voting power to elect directors of the consolidated, surviving or acquiring corporation or entity. Any securities to be delivered to the holders of Series B & C Preferred Stock upon the closing of any such consolidation, merger, sale or transfer shall be valued as follows:

2A. For securities not subject to restrictions on transfer under an investment letter or other similar restrictions on free marketability:

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

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

(iii) 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 Series A Preferred Stock or of Series B & C Preferred Stock (as the case may be) which would be entitled to receive such securities or the same type of securities.

2B. The method of valuation of securities subject to an investment letter or other restrictions on free marketability shall be to make an appropriate discount from the market value determined as above in Section 2B(e)(2A) of Article V, Part B to reflect the approximate fair market value thereof, as mutually determined by the Corporation and the holders of at least a majority of the voting

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power of all then outstanding shares of Series B & C Preferred Stock which would be entitled to receive such securities or the same type of securities.

2C. The fair market value of any other assets or property shall be determined by mutual agreement of the Corporation and the holders of at least a majority of the voting power of all then outstanding shares of Series B & C Preferred Stock which would be entitled to receive such assets or property.

9. Section 3 of Article V, Part B is renumbered Section 3A of Article V, Part B and all references in the Amended and Restated Articles are renumbered accordingly. The heading of such section is renamed "Conversion of Series A Preferred Stock." The term "Conversion Rights" in Section 3A of Article V, Part B is renamed "Series A Conversion Rights" each place the term appears in that section. The term "Conversion Price" in Section 3A of Article V, Part B is renamed "Series A Conversion Price" each place the term appears in that section. The term "Qualified Offering" in Section 3A of Article V, Part B is renamed "Series A Qualified Offering" each place the term appears in that section.

10. Immediately preceding Section 4A of Article V, Part B (as renumbered pursuant to Section 9 below), Sections 3B and 3C are added as follows:

Section 3B

Conversion of Series B Preferred Stock

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

(a) Right to Convert. Each share of Series B Preferred Stock shall be convertible, without the payment of any additional consideration by the holder of such stock, at the option of the holder of such stock, at the office of the Corporation or any transfer agent for the Series B Preferred Stock, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing \$.15 by the Series B Conversion Price, determined as provided below, in effect at the time of conversion. If more than one share of the Series B Preferred Stock shall be surrendered for conversion at the same time by the same holder of record, the number of full shares that shall be issuable upon the conversion thereof shall be computed on the basis of the total number of shares of the Series B Preferred Stock so surrendered. Each share of Series B Preferred Stock shall be so convertible at any time after the date of issuance of such share. The price at which shares of Common Stock shall be deliverable upon conversion of Series B Preferred Stock without the payment of any additional consideration by the holder thereof (the "Series B Conversion Price") shall initially be \$.1185 per share of Common Stock. Such initial Series B Conversion Price shall be subject to adjustment, in order to adjust the number of shares of Common Stock into which the Series B Preferred Stock is convertible, as provided below.

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(b) Automatic Conversion at the Option of the Corporation or Election of Holders. Each share of Series B Preferred Stock shall be converted into shares of Common Stock at the then effective Series B Conversion Price upon the first to occur of the following: (i) the closing of a firm commitment underwritten public offering pursuant to an effective registration statement under the Securities Act, covering the offer and sale of Common Stock for the account of the Corporation to the public at an aggregate offering price resulting in gross proceeds to the Corporation as seller of not less than \$20,000,000, net of underwriting discounts and commissions, provided that the offering price per share of Common Stock is not less than \$10.00 per share (as adjusted for stock splits, combinations and other similar events affecting the Common Stock, the (a "Series B Qualified Offering"), and (ii) the election by holders of at least two-thirds of the outstanding shares of Series B & C Preferred Stock. In the case of clause (i) above, the Corporation (1) shall give to each holder of Series B Preferred Stock notice of such conversion at least thirty (30) days prior to the scheduled closing of the Series B Qualified Offering, and (2) the party or parties entitled to receive the Common Stock issuable upon such conversion of the Series B Preferred Stock shall not be deemed to have converted their Series B Preferred Stock until immediately prior to the closing of such Series B Qualified Offering.

(c) Mechanics of Conversion. Each party who holds of record Series B Preferred Stock at the time of any conversion shall be entitled to any dividends which have been declared but remain unpaid at such time. Such dividends shall be paid to all such holders upon the conversion, or at the election of each holder, shall be converted into shares of Common Stock at their fair market value above as determined by the Board of Directors. No fractional shares of Common Stock shall be issued upon conversion of the Series B Preferred Stock. In lieu of any fractional share to which the holder would otherwise be entitled, the Corporation shall pay cash equal to such fraction multiplied by the then effective Series B Conversion Price. Except in the case of an automatic conversion pursuant to Section 3B(b) of Article V, Part B, before any holder of Series B Preferred Stock shall be entitled to convert the same into full shares of Common Stock, he, she or it shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Corporation or of any transfer agent for the Series B Preferred Stock, and shall give written notice to the Corporation at such office that he, she or it elects to convert the same (such notice shall also indicate whether such holder elects to convert into Common Stock accrued dividends on the Series B Preferred Stock to be converted). Upon the date of a conversion pursuant to Section 3B(b) of Article V, Part B, any party entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder of such shares of Common Stock on such date, whether or not such holder has surrendered the certificate or certificates for such holder's shares of Series B Preferred Stock. A holder surrendering his, her or its certificate or certificates shall notify the Corporation of his, her or its name or the name or names of his, her or its nominees in which he, she or it wishes the certificate or certificates for shares of Common Stock to be issued. If the person or

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persons in whose name any certificate for shares of Common Stock issuable upon such conversion shall be other than the registered holder or holders of the Series B Preferred Stock being converted, the Corporation's obligation under this Section 3B(c) of Article V, Part B shall be subject to the payment and satisfaction by such registered holder or holders of any and all transfer taxes in connection with the conversion and issuance of such Common Stock. The Corporation shall, as soon as practicable thereafter (and, in any event, within ten (10) days of such surrender), issue and deliver at such office to such holder of Series B Preferred Stock, or to his, her or its nominee or nominees, a certificate or certificates for the number of shares of Common Stock to which he, she or it shall be entitled as aforesaid, together with cash in lieu of any fraction of a share and any accrued dividends that the holder has not elected to convert into Common Stock. Except in the case of a conversion pursuant to Section 3B(b) of Article V, Part B, 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 Series B Preferred Stock to be converted, and the party or parties entitled to receive the shares of Common Stock issuable upon conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock on such date.

(d) Adjustments to Series B Conversion Price for Diluting Issues:

(i) Special Definitions. For purposes of this Section 3B(d) of Article V, Part B, the following definitions shall apply:

(1) "Additional Shares of Common Stock" shall mean any or all shares of Common Stock issued (or, pursuant to Section 3B(d)(iii) of Article V, Part B, deemed to be issued) by the Corporation after the Original Issue Date, other than shares of Common Stock issued or issuable:

(A) upon conversion of shares of Series B & C Preferred Stock, upon the conversion of shares of the Series A Preferred Stock, and upon the exercise of any warrants of the Corporation that are exercisable for Common Stock on the conversion of the Series A Preferred Stock;

(B) to employees, officers or directors of, or consultants or advisers to, the Corporation pursuant to the Corporation's 1999 Stock Option Plan, as amended, provided that the number of shares so issued or issuable shall not exceed 534,400 (as adjusted for stock splits, combinations and other similar events affecting the Common Stock); plus such additional number of shares of Common Stock as may be approved by the holders of at least two-thirds of outstanding Series B & C Preferred Stock (the "Reserved Employee Shares");

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(C) to financial institutions in connection with borrowing or lease financing arrangements of the Corporation, provided that such issuances are unanimously approved by the Board of Directors; or

(D) in connection with a consolidation, merger or sale of all or substantially all of the Corporation's assets in a transaction which the holders of voting securities of the Corporation own directly or indirectly more than fifty percent (50%) of the voting securities of the consolidated, surviving or acquiring corporation, provided that the Preferred Directors approve such consolidation, merger or sale of assets.

(2) "Convertible Securities" shall mean any evidences of indebtedness, shares of capital stock or other securities directly or indirectly convertible into or exchangeable for Common Stock.

(3) "Option" shall mean options, warrants or other rights to subscribe for, purchase or otherwise acquire either Common Stock or Convertible Securities.

(4) "Original Issue Date" shall mean the first date on which a share of Series B Preferred Stock shall have been issued.

(5) "Preferred Directors" shall mean the directors nominated and elected to the Board of Directors of the Corporation by the holders of Series B & C Preferred Stock, voting together as a class, as provided in Part B, Section 5(b)(ii) of this Article V.

(ii) No Adjustment of Series B Conversion Price. Subject to the provisions of Sections 3B(d)(iii)(2) of Article V, Part B and 3B(d)(vi) of Article V, Part B, no adjustment in the number of shares of Common Stock into which any series of the Series B Preferred Stock is convertible shall be made, by adjustment in the Series B Conversion Price of the Series B Preferred Stock in respect of the issuance of Additional Shares of Common Stock or otherwise, unless the consideration per share for an Additional Share of Common Stock issued (or deemed to be issued pursuant to Section 3B(d)(iii) of Article V, Part B) by the Corporation is less than the Series B Conversion Price in effect on the date of, and immediately prior to, the issue of such Additional Share of Common Stock.

(iii) Issue of Securities Deemed Issue of Additional Shares of Common Stock.

(1) Options and Convertible Securities. In the event the Corporation at any time or from time to time after the Original Issue Date shall issue any Options (excluding options contemplated by Section 3B(d)(i)(B) of Article V, Part B) or Convertible Securities or shall fix a record date for the determination of holders of any class of securities entitled to

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receive any such Options or Convertible Securities, then the maximum number of shares (as set forth in the instrument relating to such Options or Convertible Securities without regard to any provisions contained in such instrument for a subsequent adjustment of such number) of Common Stock issuable upon the exercise of such Options or, in the case of Convertible Securities and Options therefor, the conversion or exchange of such Convertible Securities, shall be deemed to be Additional Shares of Common Stock issued as of time of such issue or, in case such a record date shall have been fixed, as of the close of business on such record date, provided that such Additional Shares of Common Stock shall not be deemed to have been issued unless the consideration per share (determined pursuant to Section 3B(d)(v)) of Article V, Part B of such Additional Shares of Common Stock would be less than the Series B Conversion Price in effect on the date of and immediately prior to such issue, or such record date, as the case may be, and provided further that in any such case in which Additional Shares of Common Stock are deemed to be issued:

(A) no further adjustment in the Series B Conversion Price shall be made upon the subsequent issue of Convertible Securities or shares of Common Stock upon the exercise of such Options or conversion or exchange of such Convertible Securities;

(B) if such Options or Convertible Securities by their terms provide, with the passage of time, pursuant to any provisions designed to protect against dilution, or otherwise, for any increase or decrease in the consideration payable to the Corporation, or increase or decrease in the number of shares of Common Stock issuable, upon the exercise, conversion or exchange of such Options or Convertible Securities, the Series B Conversion Price computed upon the original issue of such Options or Convertible Securities (or upon the occurrence of a record date with respect thereto), and any subsequent adjustments based thereon, shall, upon any such increase or decrease becoming effective, be recomputed to reflect such increase or decrease insofar as it affects such Options or the rights of conversion or exchange under such Convertible Securities;

(C) upon the expiration of any such Options or any rights of conversion or exchange under such Convertible Securities which shall not have been exercised, the Series B Conversion Price computed upon the original issue of such Options or Convertible Securities (or upon the occurrence of a record date with respect thereto), and any subsequent adjustments based thereon, shall, upon such expiration, be recomputed as if such Options or Convertible Securities, as the case may be, were never issued;

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(D) no readjustment pursuant to clause (B) or (C) above shall have the effect of increasing the Series B Conversion Price to an amount which exceeds the lower of (i) the Series B Conversion Price on the original date on which an adjustment was made pursuant to Section 3B(d)(iii)(I) of Article V, Part B, or (ii) the Series B Conversion Price that would have resulted from any issuance of Additional Shares of Common Stock between such original adjustment date and the date on which as readjustment is made pursuant to clause (B) or (C) above;

(E) in the case of any Options which expire by their terms not more than thirty (30) days after the date of issue of such Options, no adjustment of the Series B Conversion Price shall be made until the expiration or exercise of all such Options, whereupon such adjustment shall be made in the same manner provided in clause (C) above;

(F) if such record date shall have been fixed and such Options or Convertible Securities are not issued on the date fixed therefor, the adjustment previously made in the Series B Conversion Price which became effective on such record date shall be cancelled as of the close of business on such record date, and thereafter the Series B Conversion Price shall be adjusted pursuant to Section 3B(d)(iii) of Article V, Part B as of the actual date of their issuance.

(2) Stock Dividends, Stock Distributions and Subdivisions.
In the event the Corporation at any time or from time to time after the Original Issue Date shall declare or pay any dividend or make any other distribution on the Common Stock payable in Common Stock, or effect a subdivision of the outstanding shares of Common Stock (by reclassification or otherwise than by payment of a dividend in Common Stock), then and in any such event, Additional Shares of Common Stock shall be deemed to have been issued:

(A) in the case of any such dividend or distribution, immediately after the close of business on the record date for the determination of holders of any class of securities entitled to receive such dividend or distribution, or

(B) in the case of any such subdivision, at the close of business on the date immediately prior to the date upon which such corporate action becomes effective.

If such record date shall have been fixed and such dividend shall not have been fully paid on the date fixed for the payment of such dividend, the adjustment previously made in the Series B Conversion Price which became effective on such record date shall be cancelled as of the close of business on

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such record date, and thereafter the Series B Conversion Price shall be adjusted pursuant to Section 3B(d)(iii) of Article V, Part B as of the time of actual payment of such dividend.

(iv) Adjustment of Series B Conversion Price Upon Issuance of Additional Shares of Common Stock. In the event the Corporation shall at any time after the Original Issue Date issue Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Section 3B(d)(iii)(1) of Article V, Part B, but excluding Additional Shares of Common Stock deemed to be issued pursuant to Section 3B(d)(iii)(2) of Article V, Part B, which event is dealt with in Section 3(d)(vi)) without consideration or for a consideration per share less than the Series B Conversion Price in effect on the date of and immediately prior to such issue, then the Series B Conversion Price shall be reduced, concurrently with such issue, to the price determined by dividing (i) an amount equal to the sum of (a) the number of shares of Common Stock outstanding immediately prior to such issue or sale and the number of shares of Common Stock issuable upon conversion of all Series A Preferred Stock and all Series B & C Preferred Stock and any other Convertible Securities multiplied by the then existing Series B Conversion Price and (b) the consideration, if any, received by the Corporation upon such issue or sale, by (ii) the total number of shares of Common Stock outstanding immediately after such issue or sale and the number of shares of Common Stock issuable upon conversion of all Series A Preferred Stock and all Series B & C Preferred Stock and any other Convertible Securities.

(v) Determination of Consideration. For purposes of this Section 3B(d) of Article V, Part B, the consideration received by the Corporation for the issue of any Additional Shares of Common Stock shall be computed as follows:

(1) Cash and Property: Such consideration shall:

(A) insofar as it consists of cash, be the aggregate amount of cash received by the Corporation excluding amounts paid or payable for accrued interest or accrued dividends;

(B) insofar as it consists of property other than cash, be computed at the fair value of such property at the time of such issue, as determined in good faith by the Corporation's Board of Directors (the "Board of Directors"); and

(C) in the event Additional Shares of Common Stock are issued together with other shares of securities or other assets of the Corporation for a single undivided consideration, be the proportion of such consideration so received allocable to such Additional Shares of Common Stock, computed as provided in clauses (A) and (B) above, as determined in good faith by the Board of Directors.

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(2) Options and Convertible Securities. The consideration per share received by the Corporation for Additional Shares of Common Stock deemed to have been issued pursuant to Section 3B(d)(iii)(I) of Article V, Part B shall be determined by dividing

(x) the total amount, if any, received or receivable by the Corporation as consideration for the issue of such Options or Convertible Securities, plus the minimum aggregate amount of additional consideration (as set forth in the instruments relating to such Options or Convertible Securities, without regard to any provision contained in such instruments for a subsequent adjustment of such consideration) payable to the Corporation upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities, by

(y) the maximum number of shares of Common Stock (as set forth in the instruments relating such Options or Convertible Securities, without regard to any provision contained in such instruments for a subsequent adjustment of such number) issuable upon the exercise of such Options or the conversion or exchange of such Convertible Securities.

(vi) Adjustment for Stock Dividends, Stock Distributions, Subdivisions, Combinations or Consolidations of Common Stock.

(1) Stock Dividends, Stock Distributions or Subdivisions. In the event the Corporation shall, after the Original Issue Date, issue Additional Shares of Common Stock pursuant to Part B, Section 3B(d)(iii)(2) of this Article V, in a stock dividend, other stock distribution or subdivision, the Series B Conversion Price in effect immediately prior to such stock dividend, stock distribution or subdivision shall, concurrently with the effectiveness of such stock dividend, stock distribution or subdivision, be proportionately decreased to adjust equitably for such dividend, distribution or subdivision.

(2) Combinations or Consolidations. In the event the outstanding shares of Common Stock shall, after the Original Issue Date, be combined or consolidated, by reclassification or otherwise, into a lesser number of shares of Common Stock, the Series B Conversion Price in effect immediately prior to such combination or consolidation shall, concurrently

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with the effectiveness of such combination or consolidation, be proportionately increased to adjust equitably for such combination or consolidation.

(vii) Adjustment for Merger or Reorganization, etc. In case of any consolidation or merger of the Corporation with or into another corporation or entity, or the conveyance of all or substantially all of the assets of the Corporation to another corporation or entity, or any proposed reorganization or reclassification of the Corporation (except a transaction for which provision for adjustment is otherwise made in Section 3B of Article V, Part B, and except for a Liquidation Transaction, each share of Series B Preferred Stock shall thereafter be convertible into the number of shares of stock or other securities or property to which a holder of the number of shares of Common Stock of the Corporation deliverable upon conversion of such Series B Preferred Stock would have been entitled upon such consolidation, merger, conveyance, reorganization or reclassification; and, in any such case, appropriate adjustment (as determined by the Board of Directors) shall be made in the application of the provisions set forth in these Amended and Restated Articles, to the end that the provisions set forth in these Amended and Restated Articles (including provisions with respect to changes in and other adjustments of the Series B Conversion Price) shall thereafter be applicable, as nearly as reasonably may be, in relation to any shares of stock or other property thereafter deliverable upon the conversion of the Series B Preferred Stock. The Company shall not effect any consolidation, merger, conveyance, reorganization or reclassification, other than a Liquidation Transaction, unless prior to or simultaneously with the consummation thereof the successor corporation or entity, or purchaser, as the case may be, shall assume by written instrument the obligation to deliver to the holder of the Series B Preferred Stock such shares of stock, securities or assets, as, in accordance with the foregoing provisions, such holder is entitled to receive.

(e) No Impairment. The Corporation will not, by amendment of its Amended and Restated Articles of Incorporation or through any reorganization, 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 under the Amended and Restated Articles of Incorporation by the Corporation but will at all times in good faith assist in the carrying out of all the provisions of this Section 3B of Article V, Part B and in the taking of all such action as may be necessary or appropriate in order to protect the Series B Conversion Rights of the holders of the Series B Preferred Stock against impairment.

(f) Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the Series B Conversion Price pursuant to this Section 3B of Article V, Part B, the Corporation at its expense shall promptly compute such adjustment or readjustment in accordance with the terms hereof and furnish to

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each holder of Series B Preferred Stock a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, upon the written request at any time of any holder of Series B Preferred Stock, furnish or cause to be furnished to such holder a like certificate setting forth (i) all such adjustments and readjustments theretofore made, (ii) the Series B Conversion Price at the time in effect, and (iii) the number of shares of Common Stock and the amount, if any, of other property which at such time would be received upon the conversion of Series B Preferred Stock.

(g) 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 of such securities who are entitled to receive any dividend (other than a cash dividend which is in the same amount per share as cash dividends paid in previous quarters) or other distribution, the Corporation shall mail to each holder of Series B Preferred Stock at least ten (10) days prior to the date thereof, a notice specifying the date on which any such record is to be taken for the purpose of such dividend or distribution.

(h) Common Stock Reserved. The Corporation shall reserve and at all times keep available out of its authorized but unissued Common Stock, free from preemptive or other preferential rights, restrictions, reservations, dedications, allocations, options, other warrants and other rights under any stock option, conversion option or similar agreement, such number of shares of Common Stock as shall from time to time be sufficient to effect conversion of the Series B Preferred Stock in full.

(i) No Reissuance of Series B Preferred Stock. Shares of Series B Preferred Stock which are converted into shares of Common Stock as provided in these Amended and Restated Articles shall not be reissued.

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

(k) Closing of Books. The Corporation will at no time close its transfer books against the transfer of any Series B Preferred Stock or of any shares of Common Stock issued or issuable upon the conversion of any shares of Series B Preferred Stock in any manner which interferes with the timely conversion of such Series B Preferred Stock, except as may otherwise be required to comply with applicable securities laws.

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(1) Definition of Common Stock As used in this Section 3B of Article V, Part B, the term "Common Stock" shall mean and include the Corporation's authorized Common Stock, par value \$.001 per share, as constituted in the Corporation's Amended and Restated Articles of Incorporation, and shall also include any capital stock of any class of the Corporation thereafter authorized which shall neither be limited to a fixed sum or percentage of par value in respect of the rights of the holders of such stock to participate in dividends nor entitled to a preference in the distribution of assets upon the voluntary or involuntary liquidation, dissolution or winding up of the Corporation; provided that the shares of Common Stock receivable upon conversion of shares of Series B Preferred Stock shall include only shares designated as Common Stock on the date of filing of the Amended Articles.

Section 3C

Conversion of Series C Preferred Stock

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

(a) Right to Convert. Each share of Series C Preferred Stock shall be convertible, without the payment of any additional consideration by the holder of such stock, at the option of the holder of such stock, at the office of the Corporation or any transfer agent for the Series C Preferred Stock, into such number of fully paid and nonassessable shares of Common stock as is determined by dividing \$.15 by the Series C Conversion Price, determined as provided below, in effect at the time of conversion. If more than one share of the Series C Preferred Stock shall be surrendered for conversion at the same time by the same holder of record, the number of full shares that shall be issuable upon the conversion thereof shall be computed on the basis of the total number of shares of the Series C Preferred Stock so surrendered. Each share of Series C Preferred Stock shall be so convertible at any time after the date of issuance of such share. The price at which shares of Common Stock shall be deliverable upon conversion of Series C Preferred Stock without the payment of any additional consideration by the holder thereof (the "Series C Conversion Price") shall initially be \$.15 per share of Common Stock. Such initial Series C Conversion Price shall be subject to adjustment, in order to adjust the number of shares of Common Stock into which the Series C Preferred Stock is convertible, as provided below.

(b) Automatic Conversion at the Option of the Corporation or Election of Holders. Each share of Series C Preferred Stock shall be converted into shares of Common Stock at the then effective Series C Conversion Price upon the first to occur of the following: (i) the closing of a firm commitment underwritten public offering pursuant to an effective registration statement under the Securities Act, covering the offer and sale of Common Stock for the account of the Corporation to

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the public at an aggregate offering price resulting in gross proceeds to the Corporation as seller of not less than \$20,000,000, net of underwriting discounts and commissions, provided that the offering price per share of Common Stock is not less than \$10.00 per share (as adjusted for stock splits, combinations and other similar events affecting the Common Stock, the (a "Series C Qualified Offering"), and (ii) the election by holders of at least two-thirds of the outstanding shares of Series B & C Preferred Stock. In the case of clause (i) above, the Corporation (1) shall give to each holder of Series C Preferred Stock notice of such conversion at least thirty (30) days prior to the scheduled closing of the Series C Qualified Offering, and (2) the party or parties entitled to receive the Common Stock issuable upon such conversion of the Series C Preferred Stock shall not be deemed to have converted their Series C Preferred Stock until immediately prior to the closing of such Series C Qualified Offering.

(c) Mechanics of Conversion. Each party who holds of record Series C Preferred Stock at the time of any conversion shall be entitled to any dividends which have been declared but remain unpaid at such time. Such dividends shall be paid to all such holders upon the conversion, or at the election of each holder, shall be converted into shares of Common Stock at their fair market value above as determined by the Board of Directors. No fractional shares of Common Stock shall be issued upon conversion of the Series C Preferred Stock. In lieu of any fractional share to which the holder would otherwise be entitled, the Corporation shall pay cash equal to such fraction multiplied by the then effective Series C Conversion Price. Except in the case of an automatic conversion pursuant to Section 3C(b) of Article V, Part B, before any holder of Series C Preferred Stock shall be entitled to convert the same into full shares of Common Stock, he, she or it shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Corporation or of any transfer agent for the Series C Preferred Stock, and shall give written notice to the Corporation at such office that he, she or it elects to convert the same (such notice shall also indicate whether such holder elects to convert into Common Stock accrued dividends on the Series C Preferred Stock to be converted). Upon the date of a conversion pursuant to Section 3C(b) of Article V, Part B, any party entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder of such shares of Common Stock on such date, whether or not such holder has surrendered the certificate or certificates for such holder's shares of Series C Preferred Stock. A holder surrendering his, her or its certificate or certificates shall notify the Corporation of his, her or its name or the name or names of his, her or its nominees in which he, she or it wishes the certificate or certificates for shares of Common Stock to be issued. If the person or persons in whose name any certificate for shares of Common Stock issuable upon such conversion shall be other than the registered holder or holders of the Series C Preferred Stock being converted, the Corporation's obligation under this Section 3C(c) of Article V, Part B shall be subject to the payment and satisfaction by such registered holder or holders of any and all transfer taxes in connection with the conversion and issuance of such Common Stock. The Corporation shall, as soon as

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practicable thereafter (and, in any event, within ten (10) days of such surrender), issue and deliver at such office to such holder of Series C Preferred Stock, or to his, her or its nominee or nominees, a certificate or certificates for the number of shares of Common Stock to which he, she or it shall be entitled as aforesaid, together with cash in lieu of any fraction of a share and any accrued dividends that the holder has not elected to convert into Common Stock. Except in the case of a conversion pursuant to Section 3C(b) of Article V, Part B, 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 Series C Preferred Stock to be converted, and the party or parties entitled to receive the shares of Common Stock issuable upon conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock on such date.

(d) Adjustments to Series C Conversion Price for Diluting Issues:

(i) Special Definitions. For purposes of this Section 3C(d) of Article V, Part B, the following definitions shall apply:

(1) "Additional Shares of Common Stock" shall mean any or all shares of Common Stock issued (or, pursuant to Section 3C(d)(iii) of Article V, Part B, deemed to be issued) by the Corporation after the Original Issue Date, other than shares of Common Stock issued or issuable:

(A) upon conversion of shares of Series B & C Preferred Stock, upon the conversion of shares of the Series A Preferred Stock, and upon the execution of any warrants of the Corporation that are exercisable for Common Stock on the conversion of the Series A Preferred Stock;

(B) to employees, officers or directors of, or consultants or advisers to, the Corporation pursuant to the Corporation's 1999 Stock Option Plan, as amended, provided that the number of shares so issued or issuable shall not exceed 534,400 (as adjusted for stock splits, combinations and other similar events affecting the Common Stock); plus such additional number of shares of Common Stock as may be approved by the holders of at least two-thirds of outstanding Series B & C Preferred Stock (the "Reserved Employee Shares");

(C) to financial institutions in connection with borrowing or lease financing arrangements of the Corporation, provided that such issuances are unanimously approved by the Board of Directors; or

(D) in connection with a consolidation, merger or sale of all or substantially all of the Corporation's assets in a transaction which the holders of voting securities of the Corporation own directly or indirectly more than fifty percent (50%) of the voting securities of the consolidated, surviving or acquiring corporation.

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(2) "Convertible Securities" shall mean any evidences of indebtedness, shares of capital stock or other securities directly or indirectly convertible into or exchangeable for Common Stock.

(3) "Option" shall mean options, warrants or other rights to subscribe for, purchase or otherwise acquire either Common Stock or Convertible Securities.

(4) "Original Issue Date" shall mean the first date on which a share of Series C Preferred Stock shall have been issued.

(5) "Preferred Directors" shall mean the directors nominated and elected to the Board of Directors of the Corporation by the holders of Series B & C Preferred Stock, voting together as a class, as provided in Part B, Section 5(b)(ii) of this Article V.

(ii) No Adjustment of Series C Conversion Price. Subject to the provisions of Sections 3C(d)(iii)(2) of Article V, Part B and 3C(d)(vi) of Article V, Part B, no adjustment in the number of shares of Common Stock into which any series of the Series C Preferred Stock is convertible shall be made, by adjustment in the Series C Conversion Price of the Series C Preferred in respect of the issuance of Additional Shares of Common Stock or otherwise, unless the consideration per share for an Additional Share of Common Stock issued (or deemed to be issued pursuant to Section 3C(d)(iii) of Article V, Part B) by the Corporation is less than the Series C Conversion Price in effect on the date of, and immediately prior to, the issue of such Additional Share of Common Stock.

(iii) Issue of Securities Deemed Issue of Additional Shares of Common Stock.

(1) Options and Convertible Securities. In the event the Corporation at any time or from time to time after the Original Issue Date shall issue any Options (excluding options contemplated by Section 3C(d)(i)(B) of Article V, Part B) or Convertible Securities or shall fix a record date for the determination of holders of any class of securities entitled to receive any such Options or Convertible Securities, then the maximum number of shares (as set forth in the instrument relating to such Options or Convertible Securities without regard to any provisions contained in such instrument for a subsequent adjustment of such number) of Common Stock issuable upon the exercise of such Options or, in the case of Convertible Securities and Options therefor, the conversion or exchange of such Convertible Securities, shall be deemed to be Additional Shares of Common Stock issued as of time of such issue or, in case such a record date shall have been fixed, as of the close of business on such record date, provided that such Additional Shares of Common Stock shall not be deemed to have been issued

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unless the consideration per share (determined pursuant to Section 3C(d)(v)) of Article V, Part B of such Additional Shares of Common Stock would be less than the Series C Conversion Price in effect on the date of and immediately prior to such issue, or such record date, as the case may be, and provided further that in any such case in which Additional Shares of Common Stock are deemed to be issued:

(A) no further adjustment in the Series C Conversion Price shall be made upon the subsequent issue of Convertible Securities or shares of Common Stock upon the exercise of such Options or conversion or exchange of such Convertible Securities;

(B) if such Options or Convertible Securities by their terms provide, with the passage of time, pursuant to any provisions designed to protect against dilution, or otherwise, for any increase or decrease in the consideration payable to the Corporation, or increase or decrease in the number of shares of Common Stock issuable, upon the exercise, conversion or exchange of such Options or Convertible Securities, the Series C Conversion Price computed upon the original issue of such Options or Convertible Securities (or upon the occurrence of a record date with respect thereto), and any subsequent adjustments based thereon, shall, upon any such increase or decrease becoming effective, be recomputed to reflect such increase or decrease insofar as it affects such Options or the rights of conversion or exchange under such Convertible Securities;

(C) upon the expiration of any such Options or any rights of conversion or exchange under such Convertible Securities which shall not have been exercised, the Series C Conversion Price computed upon the original issue of such Options or Convertible Securities (or upon the occurrence of a record date with respect thereto), and any subsequent adjustments based thereon, shall, upon such expiration, be recomputed as if such Options or Convertible Securities, as the case may be, were never issued;

(D) no readjustment pursuant to clause (B) or (C) above shall have the effect of increasing the Series C Conversion Price to an amount which exceeds the lower of (i) the Series C Conversion Price on the original date on which an adjustment was made pursuant to Section 3C(d)(iii)(1) of Article V, Part B, or (ii) the Series C Conversion Price that would have resulted from any issuance of Additional Shares of Common Stock between such original adjustment date and the date on which a readjustment is made pursuant to clause (B) or (C) above;

(E) in the case of any Options which expire by their terms not more than thirty (30) days after the date of issue of such Options,

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no adjustment of the Series C Conversion Price shall be made until the expiration or exercise of all such Options, whereupon such adjustment shall be made in the same manner provided in clause (C) above;

(F) if such record date shall have been fixed and such Options or Convertible Securities are not issued on the date fixed therefor, the adjustment previously made in the Series C Conversion Price which became effective on such record date shall be cancelled as of the close of business on such record date, and thereafter the Series C Conversion Price shall be adjusted pursuant to Section 3C(d)(iii) of Article V, Part B as of the actual date of their issuance.

(2) Stock Dividends, Stock Distributions and Subdivisions. In the event the Corporation at any time or from time to time after the Original Issue Date shall declare or pay any dividend or make any other distribution on the Common Stock payable in Common Stock, or effect a subdivision of the outstanding shares of Common Stock (by reclassification or otherwise than by payment of a dividend in Common Stock), then and in any such event, Additional Shares of Common Stock shall be deemed to have been issued:

(A) in the case of any such dividend or distribution, immediately after the close of business on the record date for the determination of holders of any class of securities entitled to receive such dividend or distribution, or

(B) in the case of any such subdivision, at the close of business on the date immediately prior to the date upon which such corporate action becomes effective.

If such record date shall have been fixed and such dividend shall not have been fully paid on the date fixed for the payment of such dividend, the adjustment previously made in the Series C Conversion Price which became effective on such record date shall be cancelled as of the close of business on such record date, and thereafter the Series C Conversion Price shall be adjusted pursuant to Section 3C(d)(iii) of Article V, Part B as of the time of actual payment of such dividend.

(iv) Adjustment of Series C Conversion Price Upon Issuance of Additional Shares of Common Stock. In the event the Corporation shall at any time after the Original Issue Date issue Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Section 3C(d)(iii)(1) of Article V, Part B, but excluding Additional Shares of Common Stock deemed to be issued pursuant to Section 3C(d)(iii)(2) of Article V, Part B, which event is dealt with in Section 3(d)(vi)) without consideration or for a consideration

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per share less than the Series C Conversion Price in effect on the date of and immediately prior to such issue, then the Series C Conversion Price shall be reduced, concurrently with such issue, to the price determined by dividing (i) an amount equal to the sum of (a) the number of shares of Common Stock outstanding immediately prior to such issue or sale and the number of shares of Common Stock issuable upon conversion of all Series A Preferred Stock and all Series B & C Preferred Stock and any other Convertible Securities multiplied by the then existing Series C Conversion Price and (b) the consideration, if any, received by the Corporation upon such issue or sale, by (ii) the total number of shares of Common Stock outstanding immediately after such issue or sale and the number of shares of Common Stock issuable upon conversion of all Series A Preferred Stock and all Series B & C Preferred Stock and any other Convertible Securities.

(v) Determination of Consideration. For purposes of this Section 3C(d) of Article V, Part B, the consideration received by the Corporation for the issue of any Additional Shares of Common Stock shall be computed as follows:

(1) Cash and Property: Such consideration shall:

(A) insofar as it consists of cash, be the aggregate amount of cash received by the Corporation excluding amounts paid or payable for accrued interest or accrued dividends;

(B) insofar as it consists of property other than cash, be computed at the fair value of such property at the time of such issue, as determined in good faith by the Board of Directors; and

(C) in the event Additional Shares of Common Stock are issued together with other shares of securities or other assets of the Corporation for a single undivided consideration, be the proportion of such consideration so received allocable to such Additional Shares of Common Stock, computed as provided in clauses (A) and (B) above, as determined in good faith by the Board of Directors.

(2) Options and Convertible Securities. The consideration per share received by the Corporation for Additional Shares of Common Stock deemed to have been issued pursuant to Section 3C(d)(iii)(l) of Article V, Part B shall be determined by dividing

(x) the total amount, if any, received or receivable by the Corporation as consideration for the issue of such Options or Convertible Securities, plus the minimum aggregate amount of additional consideration (as set forth in the instruments relating to such Options or Convertible Securities, without regard to any provision contained in such instruments for a subsequent adjustment of such

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consideration) payable to the Corporation upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities, by

- (y) the maximum number of shares of Common Stock (as set forth in the instruments relating such Options or Convertible Securities, without regard to any provision contained in such instruments for a subsequent adjustment of such number) issuable upon the exercise of such Options or the conversion or exchange of such Convertible Securities.

(vi) Adjustment for Stock Dividends, Stock Distributions, Subdivisions, Combinations or Consolidations of Common Stock.

(1) Stock Dividends, Stock Distributions or Subdivisions. In the event the Corporation shall, after the Original Issue Date, issue Additional Shares of Common Stock pursuant to Part B, Section 3C(d)(iii)(2) of this Article V, in a stock dividend, other stock distribution or subdivision, the Series C Conversion Price in effect immediately prior to such stock dividend, stock distribution or subdivision shall, concurrently with the effectiveness of such stock dividend, stock distribution or subdivision, be proportionately decreased to adjust equitably for such dividend, distribution or subdivision.

(2) Combinations or Consolidations. In the event the outstanding shares of Common Stock shall, after the Original Issue Date, be combined or consolidated, by reclassification or otherwise, into a lesser number of shares of Common Stock, the Series C Conversion Price in effect immediately prior to such combination or consolidation shall, concurrently with the effectiveness of such combination or consolidation, be proportionately increased to adjust equitably for such combination or consolidation.

(vii) Adjustment for Merger or Reorganization, etc. In case of any consolidation or merger of the Corporation with or into another corporation or entity, or the conveyance of all or substantially all of the assets of the Corporation to another corporation or entity, or any proposed reorganization or reclassification of the Corporation (except a transaction for which provision for adjustment is otherwise made in Section 3C of Article V, Part B, and except for a Liquidation Transaction, each share of Series C Preferred Stock shall thereafter be convertible into the number of shares of stock or other securities or property to which a holder

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of the number of shares of Common Stock of the Corporation deliverable upon conversion of such Series C Preferred Stock would have been entitled upon such consolidation, merger, conveyance, reorganization or reclassification; and, in any such case, appropriate adjustment (as determined by the Board of Directors) shall be made in the application of the provisions set forth in Amended and Restated Articles, to the end that the provisions set forth in these Amended and Restated Articles (including provisions with respect to changes in and other adjustments of the Series C Conversion Price) shall thereafter be applicable, as nearly as reasonably may be, in relation to any shares of stock or other property thereafter deliverable upon the conversion of the Series C Preferred Stock. The Company shall not effect any consolidation, merger, conveyance, reorganization or reclassification, other than a Liquidation Transaction, unless prior to or simultaneously with the consummation thereof the successor corporation or entity, or purchaser, as the case may be, shall assume by written instrument the obligation to deliver to the holder of the Series C Preferred Stock such shares of stock, securities or assets, as, in accordance with the foregoing provisions, such holder is entitled to receive.

(e) No Impairment. The Corporation will not, by amendment of its Amended and Restated Articles of Incorporation or through any reorganization, 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 under the Amended and Restated Articles of Incorporation by the Corporation but will at all times in good faith assist in the carrying out of all the provisions of this Section 3C of Article V, Part B and in the taking of all such action as may be necessary or appropriate in order to protect the Series C Conversion Rights of the holders of the Series C Preferred Stock against impairment.

(f) Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the Series C Conversion Price pursuant to this Section 3C of Article V, Part B, the Corporation at its expense shall promptly compute such adjustment or readjustment in accordance with the terms hereof and furnish to each holder of Series C Preferred Stock a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, upon the written request at any time of any holder of Series C Preferred Stock, furnish or cause to be furnished to such holder a like certificate setting forth (i) all such adjustments and readjustments theretofore made, (ii) the Series C Conversion Price at the time in effect, and (iii) the number of shares of Common Stock and the amount, if any, of other property which at such time would be received upon the conversion of Series C Preferred Stock.

(g) 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

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holders of such securities who are entitled to receive any dividend (other than a cash dividend which is in the same amount per share as cash dividends paid in previous quarters) or other distribution, the Corporation shall mail to each holder of Series C Preferred Stock at least ten (10) days prior to the date thereof, a notice specifying the date on which any such record is to be taken for the purpose of such dividend or distribution.

(h) Common Stock Reserved. The Corporation shall reserve and at all times keep available out of its authorized but unissued Common Stock, free from preemptive or other preferential rights, restrictions, reservations, dedications, allocations, options, other warrants and other rights under any stock option, conversion option or similar agreement, such number of shares of Common Stock as shall from time to time be sufficient to effect conversion of the Series C Preferred Stock in full.

(i) No Reissuance of Series C Preferred Stock. Shares of Series C Preferred Stock which are converted into shares of Common Stock as provided in these Amended and Restated Articles shall not be reissued.

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

(k) Closing of Books. The Corporation will at no time close its transfer books against the transfer of any Series C Preferred Stock or of any shares of Common Stock issued or issuable upon the conversion of any shares of Series C Preferred Stock in any manner which interferes with the timely conversion of such Series C Preferred Stock, except as may otherwise be required to comply with applicable securities laws.

(l) Definition of Common Stock. As used in this Section 3C of Article V, Part B, the term "Common Stock" shall mean and include the Corporation's authorized Common Stock, par value \$.001 per share, as constituted in the Corporation's Amended and Restated Articles of Incorporation, and shall also include any capital stock of any class of the Corporation thereafter authorized which shall neither be limited to a fixed sum or percentage of par value in respect of the rights of the holders of such stock to participate in dividends nor entitled to a preference in the distribution of assets upon the voluntary or involuntary liquidation, dissolution or winding up of the Corporation; provided that the shares of Common Stock receivable upon conversion of shares of Series C Preferred Stock

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shall include only shares designated as Common Stock of the Corporation on the date of filing of the Amended Articles.

11. Section 4 of Article V, Part B is renumbered Section 4A of Article V, Part B and all references in the Amended and Restated Articles are renumbered accordingly. The heading of such section is renamed "Redemption of Series A Preferred Stock."

12. The first parenthetical in Section 4A(a) of Article V, Part B is amended and restated as follows: "(for purposes of this Section 4A of Article V, Part B, a "Redemption Election")."

13. The second parenthetical in Section 4A(a) of Article V, Part B is amended and restated as follows: "(for purposes of this Section 4A of Article V, Part B, a "Redemption Date")."

14. The parenthetical in Section 4A(c) of Article V, Part B is amended and restated as follows: "(for purposes of this Section 4B of Article V, Part B, any such shares are "Unredeemed Shares")."

15. The term "Redeeming Shareholders" in Section 4A(f) is renamed "Series A Redeeming Shareholders" each place the term appears in that section.

16. Immediately after Section 4A of Article V, Part B, Section 4B is added as follows:

Section 4B

Redemption of Series B & C Preferred Stock

(a) Election to Redeem. The holders of at least two-thirds of the outstanding shares of Series B & C Preferred Stock shall have the right at any time and from time to time, on or after April 30, 2004, to elect by written notice to the Corporation, to compel the Corporation to redeem, pro rata any or all of the then outstanding shares of Series B & C Preferred Stock (for purposes of this Section 4B of Article V, Part B, a "Redemption Election"). Such right may be exercised on one or more occasions after April 30, 2004. The Corporation shall give notice of any Redemption Election to each holder of shares of Series B & C Preferred Stock to be redeemed at least forty-five (45) days prior to the requested date of redemption (for purposes of this Section 4B of Article V, Part B, the "Redemption Date"). A notice of redemption shall state the number of shares of Series B & C Preferred Stock to be redeemed, and if less than all of the outstanding share of Series B & C Preferred Stock are to be redeemed, each holder of Series B & C Preferred Stock shall have its, his or her pro rata share of all outstanding shares of Series B & C Preferred Stock so redeemed. The Corporation shall, to the fullest extent permitted by law, do

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all things necessary to redeem the Series B & C Preferred Stock and make the payments for such stock required by this Section 4B of Article V, Part B.

(b) Redemption Price.

(i) The "Series B Redemption Price" for each share of Series B Preferred Stock to be redeemed on the Redemption Date under this Section 4B of Article V, Part B shall be calculated in all cases as of the Redemption Date and shall be equal to the greater of (i) \$3.496, plus accrued and unpaid dividends, and (ii) the Fair Market Value (as defined in Section 4B(f) of Article V, Part B) of each share of Series B Preferred Stock. The Series B Redemption Price shall be payable in cash in immediately available funds to the respective holders on the later to occur of (A) the Redemption Date or (B) forty-five (45) days following the date that of the determination of the Fair Market Value of such shares is made pursuant to Section 4B(f) of Article V, Part B (subject to Section 4B(c) of Article V, Part B). The number of shares of Series B Preferred Stock to be redeemed by any holder which has requested redemption on the Redemption Date or as to which the Corporation has given a notice of redemption shall be determined by multiplying such amount requested to be redeemed by a fraction, the numerator of which is the aggregate number of shares of Series B Preferred Stock to be redeemed on such Redemption Date by all holders and the denominator of which is the aggregate number of shares of Series B Preferred Stock requested to be redeemed on such Redemption Date by all holders or the Corporation, as the case may be.

(ii) The "Series C Redemption Price" for each share of Series C Preferred Stock to be redeemed on the Redemption Date under this Section 4B of Article V, Part B shall be calculated in all cases as of the Redemption Date and shall be equal to the greater of (i) \$.15, plus accrued and unpaid dividends, and (ii) the Fair Market Value (as defined in Section 4B(f) of Article V, Part B) of each share of Series C Preferred Stock. The Series C Redemption Price shall be payable in cash in immediately available funds to the respective holders on the later to occur of (A) the Redemption Date or (B) forty-five (45) days following the date that of the determination of the Fair Market Value of such shares is made pursuant to Section 4B(f) of Article V, Part B (subject to Section 4B(c) of Article V, Part B). The number of shares of Series C Preferred Stock to be redeemed by any holder which has requested redemption on the Redemption Date or as to which the Corporation has given a notice of redemption shall be determined by multiplying such amount requested to be redeemed by a fraction, the numerator of which is the aggregate number of shares of Series C Preferred Stock to be redeemed on such Redemption Date by all holders and the denominator of which is the aggregate number of shares of Series C Preferred Stock requested to be redeemed on such Redemption Date by all holders or the Corporation, as the case may be.

(iii) The Series B Redemption Price and the Series C Redemption Price are collectively referred to as the "Redemption Price."

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(c) Available Funds. If on any Redemption Date sufficient funds are not legally available to redeem all of the shares of Series B & C Preferred Stock then due to be redeemed, then (i) the holders of Series B & C Preferred Stock shall share in any funds not so restricted and legally available for redemption pro rata based on the Redemption Price otherwise owed to each of them, (ii) any and all shares scheduled to be redeemed in accordance with Sections 4B(a) of Article V, Part B and 4B(b) of Article V, Part B but not so redeemed (for purposes of this Section 4B of Article V, Part B, any such shares are "Unredeemed Shares") shall be carried forward and redeemed at such time and to the extent that funds of the Corporation are legally available therefor, and (iii) Unredeemed Shares shall continue to be entitled to the dividend, conversion and other rights, preferences and privileges of the Series B & C Preferred Stock until such shares have been redeemed and the Redemption Price has been paid or otherwise set aside with respect to such Unredeemed Shares. For so long as any Unredeemed Shares remain unredeemed, the Corporation shall not pay any dividend or other distribution on the Common Stock. Notwithstanding any other provision in this Section 4B of Article V, Part B, the funds available for redemption shall be applied first to the satisfaction of any redemption obligation that the Corporation has with respect to the Series A Preferred Stock.

(d) Notice. Notice of any requested redemption shall be given by certified or registered mail (return receipt requested), postage prepaid. Any notice given by the Corporation shall be addressed to each holder at the address as it appears on the stock transfer books of the Corporation and shall specify the Redemption Date and the number of shares requested to be redeemed. On or after the Redemption Date as specified in any notice, the holder shall surrender such holder's certificate for the number of shares to be redeemed as stated in the notice to or from the Corporation. If less than all of the shares represented by such certificates are redeemed, a new certificate shall immediately be issued for the unredeemed shares.

(e) Dividend, Conversion After Redemption Payment Date. From and after the Redemption Date, no shares of Series B & C Preferred Stock subject to redemption shall be entitled to dividends, if any, as contemplated by Section 6B; provided, however, that any Unredeemed Shares shall continue to be entitled to dividends and interest thereon as provided in Sections 6B and 4B(c), respectively, of Article V, Part B until the date on which such shares are actually redeemed by the Corporation. In addition, from and after the Redemption Date, no shares of Series B & C Preferred Stock subject to redemption shall be entitled to the conversion privileges set forth in Section 3B of Article V, Part B, except as provided in Section 4B(c) of Article V, Part B with respect to Unredeemed Shares.

(f) Determination of Fair Market Value. For purposes of this Section 4B of Article V, Part B, the "Fair Market Value" of any share of Series B & C Preferred Stock of the Corporation to be redeemed pursuant to a Redemption Election shall be determined as follows: (i) within five (5) days after a Redemption Election the

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holders of not less than a majority of the outstanding shares of Series B & C Preferred Stock (the "Series B & C Redeeming Shareholders") and the Corporation shall submit their good faith estimate of such Fair Market Value as of the Redemption Date; (ii) to the extent that the Fair Market Value estimates of the Corporation and the Series B & C Redeeming Shareholders differ, the Corporation and the Series B & C Redeeming Shareholders shall engage, for an additional 5-day period, in good faith negotiations to reach agreement (if possible) on such Fair Market Value; and (iii) if the Corporation and the Series B & C Redeeming Shareholders fail to reach agreement at the end of the foregoing 5-day period, the Fair Market Value shall be determined by appraisal as set forth below.

In the event Fair Market Value is to be determined by appraisal, the Corporation and the Series B & C Redeeming Shareholders shall initially negotiate in good faith to select a mutually agreeable appraiser to determine Fair Market Value with such determination to be binding on all concerned. If the Corporation and the Series B & C Redeeming Shareholders shall fail to agree on the selection of such appraiser within five (5) days following the expiration of the 5-day period specified in the preceding paragraph, then the Corporation shall select one independent appraiser and the Series B & C Redeeming Shareholders shall select another independent appraiser and such appraisers shall promptly designate a third independent appraiser. Each of the three appraisers shall provide a determination of the Fair Market Value within twenty (20) days of the appointment of the third appraiser. The Fair Market Value under such circumstances shall be an amount equal to the average of the amounts determined by the appraisers within such twenty (20) day period; provided that in the event that the highest appraisal is more than fifteen percent (15%) higher than the middle appraisal or the lowest appraisal is more than fifteen percent (15%) lower than the middle appraisal, the appraisal that is more than fifteen percent (15%) higher or lower, or both, as the case may be, shall be disregarded in calculating the Fair Market Value. In the event that the two original appraisers cannot agree upon the final appraiser within ten (10) days following their selection by the Corporation and the Redeeming Shareholders, then the final appraiser shall be appointed by the American Arbitration Association. The determination of Fair Market Value shall be conclusive, final and binding on all holders of Series B & C Preferred Stock and the Corporation and shall be enforceable in any court having any jurisdiction over a proceeding brought to seek enforcement. All fees and expenses incurred in connection with an appraisal under this Section 4B(f) of Article V, Part B shall be borne equally by the Corporation and the Series B & C Redeeming Shareholders. Fair Market Value shall be determined as of the Redemption Date on the basis of the following assumptions: (i) without any reduction in value for lack of control or the inherent lack of liquidity of non-public minority interests; and (ii) giving full effect to the earnings history and prospects of the Corporation.

17. Section 5 of Article V, Part B is amended and restated in its entirety as follows:

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Section 5A**Voting Right While Series A Preferred Stock Outstanding**

The following provisions in this Section 5A of Article V, Part B shall apply only so long as shares of Series A Preferred Stock are outstanding:

(a) **Number of Votes.** Except as otherwise required by law and the provisions of this Part B, Section 5A of this Article V, the holders of Series A Preferred Stock and the holders of the Common Stock shall be entitled to notice of any shareholders' meeting and to vote together as a single class of capital stock upon any matter submitted to a shareholder for a vote, on the following basis:

(i) Holders of Common Stock shall have one vote per share; and

(ii) Holders of Series A Preferred Stock shall have that number of votes per share as is equal to the number of shares of Common Stock into which each such share of Series A Preferred Stock held by such holder is convertible at the time of such vote.

(b) **Election of Directors.** At any time when shares of Series A Preferred Stock are outstanding, the Board of Directors shall consist of seven (7) members, unless at least two-thirds of the holders of outstanding shares of Series A Preferred Stock approve otherwise by vote or written consent. Except as otherwise required by law, and subject to the terms of the Stockholders' Agreement, the holders of Series A Preferred Stock and the holders of Common Stock shall be entitled to vote upon the election of directors on the following basis:

(i) the holders of Common Stock then issued and outstanding, voting separately as a class, shall, by majority vote, elect three (3) members of the Board of Directors;

(ii) the holders of Series A Preferred Stock, voting separately as a class shall, by majority vote, elect two (2) members of the Board of Directors; and

(iii) the holders of Common Stock and the holders of Series A Preferred Stock, voting together as a class, shall, by majority vote, elect two (2) members of the Board of Directors.

(c) **Quorums.** Except as otherwise required by law, the following shall constitute quorums at meetings of shareholders:

(i) The presence in person, by teleconference or by proxy of the holders of shares constituting a majority of the votes entitled to vote thereat, calculated in accordance with Part B, Section 5A(a) of this Article V, shall constitute a quorum for the purpose of transaction of business at all meetings of shareholders,

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except with respect to election of directors under Part B, Section 5A(b) of this Article V; and

(ii) For the purpose of electing directors, (A) the presence in person, by teleconference or by proxy of the holders of a majority of the shares of Common Stock entitled to vote thereat shall constitute a quorum for the purpose of electing that number of directors of the Board of Directors which such shareholders are entitled to elect, voting separately as a class; (B) the presence in person, by teleconference or by proxy of the holders of a majority of the shares of Series A Preferred Stock entitled to vote thereat shall constitute a quorum for the purpose of electing that number of directors of the Board of Directors which such shareholders are entitled to elect, voting separately as a class, and (C) the presence in person, by teleconference or by proxy of the holder of a majority of the shares of the Common Stock and the Series A Preferred Stock entitled to vote shall constitute a quorum for the purpose of electing that number of directors of the Board of Directors which such shareholders are entitled to elect, voting together as a class.

18. Immediately after Section 5A of Article V, Part B, Section 5B is added as follows:

Section 5B

Voting Rights While No Series A Preferred Stock Outstanding

The following provisions in this Section 5B of Article V, Part B shall apply at all times that no shares of Series A Preferred Stock are outstanding:

(a) Number of Votes. Except as otherwise required by law and the provisions of this Section 5B of Article V, Part B, the holders of Series B & C Preferred Stock and the holders of the Common Stock shall be entitled to notice of any shareholders' meeting and to vote together as a single class of capital stock upon any matter submitted to a shareholder for a vote, on the following basis:

(i) Holders of Common Stock shall have one vote per share;

(ii) Holders of Series B & C Preferred Stock shall have that number of votes per share of Series B & C Preferred Stock as is equal to three times the number of shares of Common Stock into which each such share of Series B & C Preferred Stock held by such holder is convertible at the time of such vote.

((b) Election of Directors. At any time when shares of Series B & C Preferred Stock are outstanding, the Board of Directors shall consist of seven (7) members, unless holders of at least two-thirds of the outstanding shares of Series B & C Preferred Stock approve otherwise by vote or written consent. Also, at any time when shares of Series B & C Preferred Stock are outstanding, except as otherwise required by law, and subject to the terms of the Stockholder's Agreement

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II, the holders of Series B & C Preferred Stock and the holders of Common Stock shall be entitled to vote upon the election of directors on the following basis:

(i) the holders of Common Stock then issued and outstanding, voting separately as a class, shall, by majority vote, elect three (3) members of the Board of Directors;

(ii) the holders of Series B & C Preferred Stock, voting together as a class shall, by majority vote, elect two (2) members of the Board of Directors; and

(iii) the holders of Common Stock and the holders of Series B & C Preferred Stock voting together as a class, shall, by majority vote, calculated in accordance with Part B, Section 5B(a) of this Article V, elect two (2) members of the Board of Directors.

(c) Quorums. Except as otherwise required by law, the following shall constitute quorums at meetings of shareholders:

(i) The presence in person, by *teleconference or by proxy* of the holders of shares constituting a majority of the votes entitled to vote thereat, calculated in accordance with Part B, Section 5B(a) of this Article V, shall constitute a quorum for the purpose of transaction of business at all meetings of shareholders, except with respect to election of directors under Part B, Section 5B(b) of this Article V; and

(ii) For the purpose of electing directors at any time that there are shares of Series B & C Preferred Stock outstanding, (A) the presence in person, by teleconference or by proxy of the holders of a majority of the shares of Common Stock entitled to vote thereat shall constitute a quorum for the purpose of electing that number of directors of the Board of Directors which such shareholders are entitled to elect, voting separately as a class; (B) the presence in person, by teleconference or by proxy of the holders of a majority of the votes with respect to the shares of Series B & C Preferred Stock entitled to vote thereat shall constitute a quorum for the purpose of electing that number of directors of the Board of Directors which such shareholders are entitled to elect, voting together as a class, and (C) the presence in person, by teleconference or by proxy of the holders of a majority (in the aggregate) of the votes with respect to the shares of the Common Stock and the Series B & C Preferred Stock entitled to vote, calculated in accordance with Part B, Section 5B(a) of this Article V, shall constitute a quorum for the purpose of electing that number of directors of the Board of Directors which such shareholders are entitled to elect, voting together as a class.

19. Section 6 of Article V, Part B is renumbered Section 6A of Article V, Part B and all references in the Amended and Restated Articles are renumbered accordingly. The heading of such section is renamed "Series A Dividend Rights."

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20. The term "Dividend Rate" in Section 6A is renamed "Series A Dividend Rate" each place the term appears in that section.

21. Immediately preceding Section 7A of Article V, Part B (as renumbered pursuant to these Amended Articles), Section 6B is added as follows:

Section 6B

Series B & C Dividend Rights

Each holder of shares of Series B Preferred Stock or of Series C Preferred Stock shall be entitled to receive, for each share of Series B & C Preferred Stock registered in his, her or its name on the stock transfer books of the Corporation, annual dividends at a rate equal to seven percent (7%) of the initial per share issuance price of the Series B & C Preferred Stock per annum (the "Series B & C Dividend Rate"), payable in cash (i) when, as and if declared by the Board of Directors, (ii) upon the earliest to occur of liquidation (as provided in Section 2 of Article V, Part B), redemption (as provided in Sections 4B and 4C of Article V, Part B) or conversion (as provided in Sections 3B and 3C of Article V, Part B) and (iii) as otherwise expressly required by these Amended and Restated Articles. Dividends on Series B & C Preferred Stock shall accrue on each share beginning on the date of issuance, and shall be cumulative. Any payment made by the Corporation on the unpaid cumulative dividends, if less than the total amount of such dividends, shall be applied first to those dividends which have been accrued for the longest time and shall be made pro rata to the holders of Series B Preferred Stock and to the holders of Series C Preferred Stock based on the dividend accrued on shares of Series B & C Preferred Stock. At any time that there are no the shares of Series A Preferred Stock outstanding, holders of Series B & C Preferred Stock shall be entitled to participate pro rata in any dividends paid on the Common Stock on an as-if-converted basis.

No dividend shall be paid on or declared or set apart for payment on any shares of Series B & C Preferred Stock as long as shares of Series A Preferred Stock are outstanding and dividends payable on the Series A Preferred Stock pursuant to Section 6A of Article V, Part B are in arrears. Except for the payment and declaration of dividends pursuant to Section 6A of Article V, Part B, no dividend or other distribution shall be paid on or declared or set apart for payment on any shares of the Common Stock or any shares of any other class or series or issue of Preferred Stock as long as any dividends payable on the Series B & C Preferred Stock are in arrears.

The term "distribution" as used in this Section 6B of Article V, Part B shall include the transfer of cash or property without consideration, whether by way of dividend or otherwise (except as dividend in shares of Common Stock), or the purchase or redemption of shares of the Corporation (other than from employees of

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the Corporation upon termination of employment or pursuant to the Corporation's rights of first refusal, in each case upon approval of the Board of Directors), for cash or property, including such transfer, purchase or redemption by a subsidiary of the Corporation. The time of any distribution by way of dividends shall be the date of declaration of such dividends, and the time of any distribution by purchase or redemption of shares shall be the date on which cash or property is transferred by the Corporation, whether or not pursuant to a contract of an earlier date; provided that where a debt security is issued in exchange for shares, the time of the distribution is the date when the Corporation acquires the shares for such exchange.

22. Section 7 of Article V, Part B is renumbered Section 7A of Article V, Part B and all references in the Amended and Restated Articles are renumbered accordingly. The heading of such section is renamed "Series A Covenants."

23. Immediately preceding Section 8A of Article V, Part B (as renumbered pursuant to these Amended Articles), Section 7B is added as follows:

Section 7B

Series B & C Covenants

The provisions of this Section 7B of Article V, Part B shall not apply so long as any shares of Series A Preferred Stock shall be outstanding. Without limiting the rights of the holders of the Series B & C Preferred Stock to vote as a class, as required by law, so long as any shares of Series B & C Preferred Stock shall be outstanding, the Corporation shall not, without first obtaining the affirmative vote or written consent of not less than two-thirds of such outstanding shares of Series B & C Preferred Stock:

(a) amend or repeal any provision of, or add any provision to, the Corporation's Amended and Restated Articles of Incorporation, as amended by the Amended Articles, or Bylaws;

(b) increase or decrease the authorized number of shares of Series B & C Preferred Stock;

(c) reclassify any Common Stock into shares having any preference or priority as to dividends or assets or other rights and privileges in any case superior to or on a parity with any such preference, priority, right or privilege of the Series B & C Preferred Stock (including, without limitation, by granting to the holder of any security issued by the Corporation a security interest or lien on assets of the Corporation), or otherwise effect a capital reorganization of either the Corporation or any subsidiary of the Corporation, or effect a liquidation, or dissolution or winding up of the Corporation;

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(d) apply any of its assets to the redemption, retirement, purchase or other acquisition directly or indirectly, through subsidiaries or otherwise, of any shares of Common Stock or other securities of the Corporation (other than the Series B & C Preferred Stock), except from employees of the Corporation upon termination of employment or pursuant to the Corporation's rights of first refusal;

(e) liquidate, dissolve or wind up the Corporation, or consolidate or merge the Corporation or any subsidiary of the Corporation into or with, or acquire or cause any subsidiary of the Corporation to acquire the stock or all or substantially all the assets of, any other corporation, partnership or other entity;

(f) sell, lease, convey, encumber or otherwise dispose of all or substantially all of the property or business of the Corporation or any subsidiary of the Corporation;

(g) create, authorize or issue, directly or indirectly, capital stock or other securities, having any preference or priority as to dividends or assets, or other rights or privileges, in any case superior to or on a parity with any such preference, priority, right or privilege of the Series B & C Preferred Stock (including, without limitation, by granting to the holder of any security issued by the Corporation a security interest or lien on assets of the Corporation, excluding security interests relating to loans made to the Corporation from financial institutions, provided that such security interests do not secure any obligations related to equity securities of the Corporation);

(h) pay, set aside for payment or declare any dividend or other distribution (as defined in Section 6B of Article V, Part B) on any share of Common Stock or any shares of any other class or series or issue of Preferred Stock other than Series A Preferred Stock as provided in Section 6A of Article V, Part B;

(i) change the nature of the Corporation's business in any material way or make any material change to the Corporation's business plan, as approved by the holders of at least two-thirds of the Series B & C Preferred Stock;

(j) permit any subsidiary to issue or sell, or obligate itself to issue or sell (except to the Corporation), any equity security of such subsidiary; or

(k) amend this Section 7B.

24. Section 8 of Article V, Part B is hereby amended and restated as follows:

Section 8A

Series A Stock Dividends, Stock Distributions, Subdivisions Combinations and Consolidations

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In the event the Corporation shall issue additional shares of Series A Preferred Stock in a stock dividend, other stock distribution or subdivision, or in the event the outstanding shares of Series A Preferred Stock shall be combined or consolidated, by reclassification or otherwise, into a lesser number of shares of Series A Preferred Stock, (i) the Series A Liquidation Amount (as defined in Part B, Section 2A(a) of this Article V), (ii) the dollar amount set forth in the first sentence of Part B, Section 3A(a) of this Article V; and (iii) the dollar amount set forth in Part B, Section 4A(b)(i) of this Article V, in each case in effect immediately prior to such event shall, concurrently therewith, be proportionately decreased (in the case of a stock dividend, other stock distribution or subdivision) or increased (in the case of a combination or consolidation) in each such case to adjust equitably therefor.

25. Immediately following Section 8A of Article V, Part B (as renumbered pursuant to these Articles of Amendment), Sections 8B and 8C are added as follows:

Section 8B

**Series B Stock Dividends, Stock Distributions,
Subdivisions, Combinations and Consolidations**

In the event the Corporation shall issue additional shares of Series B Preferred Stock in a stock dividend, other stock distribution or subdivision, or in the event the outstanding shares of Series B Preferred Stock shall be combined or consolidated, by reclassification or otherwise, into a lesser number of shares of Series B Preferred Stock, (i) the Series B & C Liquidation Amount and the Series B Liquidation Amount (each as defined in Section 2B(a) of Article V, Part B), (ii) the dollar amounts set forth in the first sentence of Section 3B(a) of Article V, Part B; and (iii) the dollar amount set forth in Section 4B(b)(i) of Article V, Part B, in each case in effect immediately prior to such event shall, concurrently therewith, be proportionately decreased (in the case of a stock dividend, other stock distribution or subdivision) or increased (in the case of a combination or consolidation) in each such case to adjust equitably therefor.

Section 8C

**Series C Stock Dividends, Stock Distributions,
Subdivisions, Combinations and Consolidations**

In the event the Corporation shall issue additional shares of Series C Preferred Stock in a stock dividend, other stock distribution or subdivision, or in the event the outstanding shares of Series C Preferred Stock shall be combined or consolidated, by reclassification or otherwise, into a lesser number of shares of Series C Preferred Stock, (i) the Series B & C Liquidation Amount (as defined in Section 2B(a) of Article V, Part B), (ii) the dollar amounts set forth in the first sentence of Section 3C(a) of Article V, Part B; and (iii) the dollar amount set forth in Section 4C(b)(i) of Article V, Part B, in each case in effect immediately prior to such

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event shall, concurrently therewith, be proportionately decreased (in the case of a stock dividend, other stock distribution or subdivision) or increased (in the case of a combination or consolidation) in each such case to adjust equitably therefor."

26. Section 9 of Article V, Part B is renumbered as Section 10 of Article V, Part B and all references in the Amended and Restated Articles are renumbered accordingly. Immediately preceding that section, Section 9 of Article V, Part B is hereby added as follows:

Section 9

**Restrictions on Issuance of Series A Preferred Stock
and on Issuance of Series B & C Preferred Stock**

At all times that one or more shares of Series A Preferred Stock are outstanding, the Corporation shall not issue any shares of Series B & C Preferred Stock. At all times that one or more shares of Series B Preferred Stock or Series C Preferred Stock are outstanding, the Corporation shall not issue any shares of Series A Preferred Stock.

27. All references to the renumbered provisions that have not been renumbered pursuant to these Articles of Amendment are hereby renumbered in accordance with these Articles of Amendment.

IN WITNESS WHEREOF, the undersigned has executed this instrument on September 5, 2003.

EANGLER, INC.

By: Michael B. Davis
Michael B. Davis, President

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