



V43320

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REFERENCE *Patricia Pyatt* 732305 4802598

AUTHORIZATION :

COST LIMIT : \$ 43.75

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CUSTOMER NO: 4802598

CUSTOMER: Frank E. Dietrick, Paralegal
Dilworth, Paxson LLP
3200 Mellon Bank Cntr.
1735 Market Street
Philadelphia, PA 19103

FILED
00 JUN 15 PM 2:13
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

DOMESTIC AMENDMENT FILING 100003291031--6

NAME: HOSPITALITY SOLUTIONS
INTERNATIONAL, INC.

EFFECTIVE DATE:

XX ARTICLES OF AMENDMENT
XX RESTATED ARTICLES OF INCORPORATION

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

XX CERTIFIED COPY
 PLAIN STAMPED COPY
 CERTIFICATE OF GOOD STANDING

CONTACT PERSON: Andrea C. Mabry

EXAMINER'S INITIALS: _____

RECEIVED
00 JUN 15 AM 10:37
DEPARTMENT OF STATE
DIVISION OF CORPORATIONS
TALLAHASSEE, FLORIDA

If we can have proof of filing back today, that would be wonderful. This client is trying to wire \$8 today. Thanks.

**SECOND AMENDED AND RESTATED
ARTICLES OF INCORPORATION**

OF

HOSPITALITY SOLUTIONS INTERNATIONAL, INC.

The undersigned, Eric L. Blum, Chief Executive Officer of Hospitality Solutions International, Inc., a Florida corporation (the "Corporation"), in accordance with Sections 607.1003, 607.1006 and 607.1007 of the Florida Business Corporation Act, does hereby certify that:

1. The amendment and restatement of the Corporations' Amended and Restated Articles of Incorporation as set forth below was duly approved and adopted a majority of the Corporation's Board of Directors at a meeting of the Board of Directors of the Corporation held on June 5, 2000.
2. The text of the Second Amended and Restated Articles of Incorporation is hereby further amended and restated to read in its entirety as follows:

**ARTICLE I
NAME**

The name of this corporation is Hospitality Solutions International, Inc.

**ARTICLE II
PRINCIPAL OFFICE**

The principal place of business and mailing address of this corporation is 101 Greenwood Avenue, Suite 600, Jenkintown, Pennsylvania 19046.

**ARTICLE III
PURPOSE**

This corporation is organized for the purpose of transacting any or all lawful business for which corporations may be incorporated under the Florida business Corporations Act.

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TALLAHASSEE, FLORIDA

ARTICLE IV **CAPITAL STOCK**

The aggregate number of shares of capital stock which the Corporation has the authority to issue is 65,000,000 shares, which shall consist of 50,000,000 shares of common stock, \$.000001332 par value per share ("Common Stock"), and 15,000,000 shares of preferred stock, \$.04 par value per share ("Preferred Stock"). No shareholder of any capital stock of this corporation shall have preemptive rights.

A. Common Stock. Subject to Sections 3.A. and 3.B. below, the holders of the Common Stock shall be entitled to receive, when and as declared by the Board of Directors, in accordance with Florida law regarding distributions to shareholders, dividends payable either in cash, in property, or in shares of the capital stock of the corporation. Each holder of record of the Common Stock shall have one vote for each share of Common Stock standing in such holder's name on the books of the Corporation and entitled to vote. The Common Stock shall have no special powers, preferences or rights, or qualifications, limitations, or restrictions thereof.

B. Preferred Stock. The Preferred Stock, other than the Series A Convertible Preferred Stock, Series B Convertible Preferred Stock and Series C Convertible Preferred Stock designated below, may be issued by the Board of Directors, from time to time, in one or more series. Authority is hereby vested solely in the Board of Directors of the Corporation to provide, from time to time, for the issuance of Preferred Stock in one or more series and in connection therewith to determine without shareholder approval, the number of shares to be included and such of the designations, powers, preferences, and relative rights and the qualifications, limitations, and restrictions of any such series, including, without limitation, rights of redemption or conversion into Common Stock, to the fullest extent now or hereafter permitted by the Florida Business Corporation Act.

Shares of any series of Preferred Stock, other than the Series A Convertible Preferred Stock, Series B Convertible Preferred Stock and Series C Convertible Preferred Stock designated below, that shall be issued and thereafter acquired by the Corporation through purchase, redemption (whether through the operation of a sinking fund or otherwise), conversion, exchange or otherwise, shall, upon appropriate filing and recording to the extent required by law, have the status of authorized and unissued shares of Preferred Stock and may be reissued as part of such series or as part of any other series of Preferred Stock. Unless otherwise provided in the resolution or resolutions of the Board of Directors providing for the issuance thereof, the number of authorized shares of stock of any series of Preferred Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by resolution or resolutions of the Board of Directors and appropriate filing and recording to the extent required by law. In case the number of shares of any such series of Preferred Stock shall be decreased, the shares representing such decrease shall, unless otherwise provided in the resolution or resolutions of the Board of Directors providing for the issuance thereof, resume the status of authorized but unissued shares of Preferred Stock, undesignated as to series.

Section 1. Series A Convertible Preferred Stock, Series B Convertible Preferred Stock and Series C Convertible Preferred Stock. 893,412 shares of the authorized and unissued shares of \$.04 par value Preferred Stock of the Corporation are hereby designated "Series A Convertible Preferred Stock" (the "Series A Preferred Shares"), 1,050,810 shares of the authorized and unissued shares of \$.04 par value Preferred Stock of the Corporation are hereby designated "Series B Convertible Preferred Stock" (the "Series B Preferred Shares") and 1,666,667 shares of the authorized and unissued shares of \$.04 par value Preferred Stock of the Corporation are hereby designated "Series C Convertible Preferred Stock" (the "Series C Preferred Shares") (such Series A Preferred Shares and Series B Preferred Shares are sometime collectively referred to as "Series A-B Preferred Stock" and the Series A-B Preferred Stock, together with the Series C Preferred Shares, are sometimes collectively referred to as the "Preferred Stock") with the following powers, preferences and rights, and the qualifications, limitations and restrictions thereon:

Section 2. Voting.

A. General. Except as may be otherwise provided in these Articles of Incorporation or by law, the holders of the Preferred Stock shall vote together with all other classes and series of stock of the Corporation as a single class on all actions to be taken by the shareholders of the Corporation. Each share of the Preferred Stock shall entitle the holder thereof to such number of votes per share on each such action as shall equal the number of shares of Common Stock (including fractions of a share) into which each share of the Preferred Stock is then convertible.

B. Board Seats. The holders of the Series A-B Preferred Stock, voting as a single series, shall be entitled to elect one (1) director of the Corporation. At any meeting (or in a written consent in lieu thereof) held for the purpose of electing directors, the presence in person or by proxy (or the written consent) of the holders of a majority of the Series A-B Preferred Stock then outstanding shall constitute a quorum of the Series A-B Preferred Stock for the election of the director to be elected solely by the holders of the Series A-B Preferred Stock. A vacancy in any directorship elected by the holders of the Series A-B Preferred Stock shall be filled only by vote or written consent of the holders of the Series A-B Preferred Stock.

Section 3. Dividends.

A. Series A-B Preferred Stock Dividends. The holders of Series A-B Preferred Stock shall be entitled to receive dividends, out of funds legally available therefor, when and if declared by the Board of Directors.

B. Series C Preferred Shares Dividends. The holders of Series C Preferred Shares, in preference to the holders of Common Stock, shall be entitled to receive, whether or not declared by the Board of Directors, but only out of funds that are legally available therefor, cumulative dividends at the rate of ten percent (10%) of the "Original Issue

Price" per annum on each outstanding Series C Preferred Share (such dividends, the "Fixed Dividends"). The Original Issue Price of Series C Preferred Shares, shall be \$6.00 per share (the "Series C Per Share Amount") (subject to adjustment in the event of stock dividends, combinations, recapitalizations, splits and the like). The Fixed Dividends shall accrue on each Series C Preferred Share beginning on the date that these Second Amended and Restated Articles of Incorporation are first filed with the Secretary of State of the State of Florida.

C. Common Stock Dividends. The holders of the Preferred Stock shall also be entitled to receive, out of funds legally available therefor, dividends at the same rate as dividends (other than dividends paid in additional shares of Common Stock) are paid with respect to the Common Stock (treating each share of the Preferred Stock as being equal to the number of shares of Common Stock (including fractions of a share) into which each share of the Preferred Stock is then convertible). No dividends shall be declared or paid on shares of Common Stock unless and until all accrued but unpaid Fixed Dividends on Series C Preferred Share, and such other dividends as are declared but unpaid with respect to shares of Preferred Stock, are paid.

Section 4. Liquidation/Transaction Event.

A. Series A-B Preferred Stock.

(1) Liquidation Payments. Upon any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary (each such event, together with any transaction covered by Section 4.A.(2), a "Liquidation Event"), the holders of Series A Preferred Shares and Series Preferred Shares shall be entitled, before any distribution or payment is made upon any stock ranking on liquidation junior to the Series A Preferred Shares and Series B Preferred Shares, to be paid an amount equal to the greater of (i) in the case of Series A Preferred Shares, \$3.4897712 per share (the "Series A Per Share Amount") (as such amount is adjusted for stock dividends, combinations, recapitalizations, splits and the like) and (ii) in the case of Series B Preferred Shares, \$5.7599992 per share (the "Series B Per Share Amount"; the Series A Per Share Amount, the Series B Per Share Amount and the Series C Per Share Amount are sometimes referred to herein individually as the "Applicable Per Share Amount") (as such amount is adjusted for stock dividends, combinations, recapitalizations, splits and the like) (a) plus, in the case of each share, an amount equal to an accruing annual dividend of ten percent (10%) per share of the Series A Per Share Amount and the Series B Per Share Amount (calculated on a pro rata basis for any partial year), and (b) less all dividends previously declared and paid thereon, or (iii) such amount per share as would have been payable had each such share, and all other shares of any outstanding series of Preferred Stock, been converted to Common Stock pursuant to Paragraph 6 immediately prior to such Liquidation Event, and the holders of Series A Preferred Shares and Series B Preferred Shares shall not be entitled to any further payment. The amount payable with respect to one Series A Preferred Share or Series B Preferred Share shall be sometimes referred to as the "Series A Liquidation Payment" and "Series B Liquidation Payment", respectively.

(2) Mergers and Consolidations. The consolidation or merger of the Corporation into or with any other entity or entities which results in the exchange of outstanding shares of the Corporation for securities or other consideration issued or paid or caused to be issued or paid by any such entity or affiliate thereof (other than a merger to reincorporate the Corporation in a different jurisdiction), and the sale, lease, abandonment, transfer or other disposition by the Corporation of all or substantially all its assets, shall be deemed to be a liquidation, dissolution or winding up of the Corporation within the meaning of the provisions of this Section 4(a). For purposes hereof, the Common Stock shall rank on liquidation junior to Series A-B Preferred Stock and Series A-B Preferred Stock shall rank *pari passu* with Series C Preferred Shares.

B. Series C Preferred Shares.

(1) Liquidation Payments. Upon any Transaction Event (as defined below) the holders of Series C Preferred Shares shall be entitled to be paid, before any distribution or payment is made upon Common Stock or any other stock that is junior to the Preferred Stock, an amount equal to the sum of (i) the Series C Per Share Amount (as such amount is adjusted for stock dividends, combinations, recapitalizations, splits and the like) plus all accrued but unpaid Fixed Dividends and (ii) an amount computed on the basis of the number of shares of Common Stock which would be held by such holders if immediately prior to such Transaction Event all of the outstanding shares of each series of Preferred Stock had been converted into shares of Common Stock. The amount payable with respect to one share of Series C Shares shall be sometimes referred to as the "Series C Liquidation Payment", the Series A Liquidation Payment, the Series B Liquidation Payment and the Series C Liquidation Payment shall individually be referred to as the "Applicable Liquidation Payment" and collectively as the "Applicable Liquidation Payments."

(2) Definitions.

(i) For purposes hereof, the term "Transaction Event" shall mean any of the following, unless the holders of at least a majority (50%) of the then outstanding Series C Shares elect otherwise:

(a) a consolidation, merger or share exchange (other than a consolidation or merger in which the holders of voting securities of the Corporation immediately before the consolidation or merger own (immediately after the consolidation or merger) voting securities of the surviving or acquiring corporation, or a parent party of such surviving or acquiring corporation, possessing more than 50% of the voting power of such surviving or acquiring corporation or parent party) involving the Corporation; or

(b) a sale, lease, abandonment, transfer, license (other than license in the ordinary course of business of the Corporation consistent with past custom and practice (including with respect to quantity and frequency)) or other disposition, in

one or a series of transactions, of "Substantially All of the Assets" (as defined below) of the Corporation; or

(c) the liquidation, dissolution or winding up of the affairs of the Corporation, whether voluntary or involuntary; or

(d) any other transaction or series of related transactions, including without limitation, the sale of voting securities of the Corporation, that result in the holders of voting securities of the Corporation immediately before such transaction owning (immediately after such transaction) voting securities of the Corporation possessing 50% or less of the voting power of the Corporation.

(ii) For purposes hereof, the term "Substantially All of the Assets" shall mean the assets of the Corporation that during the immediately preceding four fiscal quarter year periods generated eighty percent (80%) or more of the Corporation's EBITDA for such periods. For purposes hereof, EBITDA, for any period, shall equal to the sum of (a) net income (or loss) of the Corporation and its subsidiaries determined on a consolidated basis for such period, plus (b) interest expense for such period of the Corporation and its subsidiaries determined on a consolidated basis, plus (c) federal and state income tax deductions in calculating net income for such period, plus (d) to the extent deducted in the calculation of net income for such period, depreciation and amortization expenses, in each case determined on a consolidated basis of the Corporation and its subsidiaries in accordance with the United States generally accepted accounting and consistent with those utilized in the preparation of the Corporation's financial statements.

C. Ratable Distributions. If upon a Transaction Event, and if such Transaction Event is also a Liquidation Event, such Liquidation Event, the assets to be distributed among the holders of the applicable series Preferred Stock shall be insufficient to permit payment to the holders of the applicable Preferred Stock of the Applicable Liquidation Payments, then the entire assets of the Corporation to be so distributed shall be distributed ratably among the holders of Preferred Stock entitled to an Applicable Liquidation Payment in proportion to the aggregate Applicable Liquidation Payments payable in respect of the shares of applicable series of Preferred Stock held by each such holder.

D. Common Stock and Junior Stock.

(1) Transaction Event. Upon any Transaction Event (which is not a Liquidation Event) after the holders of Series C Preferred Shares shall have been paid in full the Applicable Liquidation Payment, the remaining net assets of the Corporation may be distributed to the holders of Common Stock, Series A-B Preferred Stock and other stock ranking on liquidation junior to Series C Preferred Shares. Written notice of such a Transaction Event, stating a payment date, the amount of the Applicable Liquidation Payments and the place where said Applicable Liquidation Payments shall be payable, shall be delivered in person, mailed by certified or registered mail or courier service, return receipt requested, or sent by telecopier or

telex, not less than twenty (20) days prior to the payment date stated therein, to the holders of record of Series C Preferred Shares, such notice to be addressed to each such holder at its address as shown by the records of the Corporation.

(2) Liquidation Event. Upon any Transaction Event (which is a Liquidation Event) after the holders of Preferred Stock shall have been paid in full the Applicable Liquidation Payment, the remaining net assets of the Corporation may be distributed to the holders of Common Stock and other stock ranking on liquidation junior to Preferred Stock. Written notice of such a Transaction Event, stating a payment date, the amount of the Applicable Liquidation Payments and the place where said Applicable Liquidation Payments shall be payable, shall be delivered in person, mailed by certified or registered mail or courier service, return receipt requested, or sent by telecopier or telex, not less than twenty (20) days prior to the payment date stated therein, to the holders of record of Preferred Stock, such notice to be addressed to each such holder at its address as shown by the records of the Corporation.

Section 5. Restrictions.

A. Series A-B Preferred Stock. So long as twenty-five percent (25%) of the originally issued shares of Series A-B Preferred Stock are outstanding, except where the vote or written consent of the holders of a greater number of shares of the Corporation is required by law or by these Articles of Incorporation and in addition to any other vote required by law or these Articles of Incorporation, without the approval of the holders of at least a majority of the then outstanding shares of Series A-B Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a single series, the Corporation will not:

(1) Create or authorize the creation of any additional class or series of shares of stock unless the same ranks junior to the Series A-B Preferred Stock as to the distribution of assets in a Liquidation Event, or increase the authorized amount of the Series A-B Preferred Stock or increase the authorized amount of any additional class or series of shares of stock unless the same ranks junior to the Series A-B Preferred Stock as to the distribution of assets on the liquidation, dissolution or winding up of the Corporation, or create or authorize any obligation or security convertible into shares of Series A-B Preferred Stock or into shares of any other class or series of stock unless the same ranks junior to the Series A-B Preferred Stock as to the distribution of assets in a Liquidation Event, whether any such creation, authorization or increase shall be by means of amendment to these Articles of Incorporation or by merger, consolidation or otherwise;

(2) Consent to any liquidation, dissolution or winding up of the Corporation, including, consolidate or merge into or with any other entity or entities or sell, lease, abandon, transfer or otherwise dispose of all or substantially all its assets unless the aggregate net proceeds to the holders of Series A-B Preferred Stock arising from such transaction equal or exceed an amount equal to the Applicable Liquidation Payments;

(3) Amend, alter or repeal its Articles of Incorporation if the effect would be detrimental or adverse in any manner with respect to the rights of the holders of the Series A-B Preferred Stock;

(4) Redeem or otherwise acquire any shares of Series A-B Preferred Stock except pursuant to a purchase offer made pro rata to all holders of the shares of Series A-B Preferred Stock on the basis of the aggregate number of outstanding shares of Series A-B Preferred Stock then held by each such holder.

B. Series C Preferred Shares. So long as twenty-five percent (25%) of the originally issued Series C Preferred Shares are outstanding, except where the vote or written consent of the holders of a greater number of shares of the Corporation is required by law or by these Articles of Incorporation and in addition to any other vote required by law or these Articles of Incorporation, without the approval of the holders of at least a majority (50%) of then outstanding Series C Preferred Shares, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a single series, the Corporation will not:

(1) Effect a Transaction Event;

(2) Permit any Subsidiary to sell or issue any equity securities to any Person other than the Corporation;

(3) Change the size of the Board of Directors of the Corporation;

(4) Create, incur, assume, or guarantee indebtedness for money borrowed with a duration of greater than one (1) year, or increase the amount of any indebtedness outstanding under any loan agreement, mortgage, or other borrowing arrangement with a duration of greater than one (1) year, in each case requiring payment by the Company in excess of \$2,000,000;

(5) Amend the 1999 Stock Option Plan or the 1999 Non-Employee Stock Option Plan to increase the number of shares of Common Stock issuable thereunder or adopt any new stock option plan;

(6) Create or authorize the creation of any additional class or series of shares of stock unless the same ranks junior to the Series C Preferred Shares as to the distribution of assets in a Transaction Event, or increase the authorized amount of the Series C Preferred Shares or increase the authorized amount of any additional class or series of shares of stock unless the same ranks junior to the Series C Preferred Shares as to the distribution of assets in a Transaction Event, or create or authorize any obligation or security convertible into Series C Preferred Shares or into shares of any other class or series of stock unless the same ranks junior to the Series C Preferred Shares as to the distribution of assets in a Transaction Event, whether

any such creation, authorization or increase shall be by means of amendment to these Articles of Incorporation or by merger, consolidation or otherwise;

(7) Amend, alter or repeal these Articles of Incorporation and the Corporation's Bylaws if the effect would be detrimental or adverse in any manner with respect to the rights of the holders of the Series C Preferred Shares;

(8) Redeem or otherwise acquire any shares of Preferred Stock except pursuant to a purchase offer made pro rata to all holders of the shares of Preferred Stock on the basis of the aggregate number of outstanding shares of Preferred Stock then held by each such holder;

(9) Change the compensation of the Corporation's Chairman, Chief Executive Officer, President, Chief Operating Officer and Chief Financial Officer;

(10) Except as provided for in Section 7 below, redeem or otherwise acquire any shares of Common Stock or Preferred Stock, except for shares repurchased from employees upon termination of such employees' employment with the Corporation and shares repurchased from any shareholder of the Corporation pursuant to an agreement entered into by the Corporation and such shareholder prior to the date that these Second Amended and Restated Articles of Incorporation are first filed with the Secretary of State of the State of Florida; or

(11) Declare any dividend on any shares of Common Stock in which the Series C Preferred Shares do not share ratably.

C. Definitions. For purposes of this Section, the following terms shall have the following meanings:

(1) "Person" shall mean an individual, a partnership, a corporation, limited liability company, an association, a joint stock company, a trust, a joint venture, any other form of business organization, an unincorporated organization, or a governmental entity (or any department, agency, or political subdivision thereof).

(2) "Subsidiary" shall mean any corporation or other organization, whether incorporated or unincorporated, in which the Corporation owns, directly or indirectly, any equity or other ownership interest.

Section 6. Conversions. The holders of shares of Preferred Stock shall have the following conversion rights:

A. Right to Convert. Subject to the terms and conditions of this Section 6, the holder of any share or shares of Preferred Stock shall have the right, at its opinion at any time or from time to time, to convert any such shares of Preferred Stock (except that upon

any Transaction Event with respect to the Series C Preferred Share and a Liquidation Event with respect to the Series A-B Preferred Stock, as applicable, the right of conversion shall terminate at the close of business on the business day fixed for payment of the amount distributable on the Preferred Stock) into such number of fully paid and nonassessable shares of Common Stock as is obtained by (a) multiplying the number of shares of the applicable series of Preferred Stock so to be converted by the applicable Applicable Per Share Amount and (b) dividing the result by the conversion price of (x) \$3.4897712 per share in the case of Series A Preferred Shares; (y) \$5.7599992 per share in the case of Series B Preferred Shares; and (z) \$6.00 per share in the case of Series C Preferred Shares or, in case an adjustment of such price has taken place pursuant to the further provisions of this Section 6, then by the conversion price as last adjusted and in effect at the date any Series A Preferred Shares, Series B Preferred Shares or Series C Preferred Shares, as the case may be, are surrendered for conversion. The conversion price, or such price as last adjusted and in effect at the date of conversion, for the Series A Preferred Shares, Series B Preferred Shares or Series C Preferred Shares shall be referred to as its respective, applicable "Conversion Price". Such rights of conversion shall be exercised by the holder thereof by giving written notice that the holder elects to convert a stated number of shares of Preferred Stock into Common Stock and by surrender of a certificate or certificates for the shares so to be converted to the Corporation at its principal office (or such other office or agency of the Corporation as the Corporation may designate by notice in writing to the holders of the Preferred Stock) at any time during its usual business hours on the date set forth in such notice, together with a statement of the name or names (with address) in which the certificate or certificates for shares of Common Stock shall be issued.

B. Issuance of Certificates; Time Conversion Effected. Promptly after the receipt of the written notice referred to in Section 6.A. and surrender of the certificate or certificates for the share or shares of Preferred Stock to be converted, the Corporation shall issue and deliver, or cause to be issued and delivered, to the holder, registered in such name or names as such holder may direct, a certificate or certificates for the number of whole shares of Common Stock issuable upon the conversion of such share or shares of Preferred Stock. To the extent permitted by law, such conversion shall be deemed to have been effected and the applicable Conversion Price shall be determined as of the close of business on the date on which such written notice shall have been received by the Corporation and the certificate or certificates for such share or shares shall have been surrendered as aforesaid, and at such time the rights of the holder of such share or shares of Preferred Stock shall cease, and the person or persons in whose name or names any certificate or certificates for shares of Common Stock shall be issuable upon such conversion shall be deemed to have become the holder or holders of record of the shares of Common Stock represented thereby.

C. Fractional Shares; Dividends; Partial Conversion. No fractional shares of Common Stock shall be issued upon conversion of Preferred Stock into Common Stock. If any fractional share of Common Stock would, except for the provisions of the first sentence of this Section 6.C., be delivered upon such conversion, the Corporation, in lieu of delivering such fractional share, shall pay to the holder surrendering the Preferred Stock for conversion an amount in cash equal to the current fair value of such fractional share as

determined in good faith by the Board of Directors of the Corporation. At the time of each conversion of Series C Preferred Shares, except in the event of a Qualified Public Offering (as defined below), the Corporation shall pay in cash an amount equal to all Fixed Dividends and any other dividends accrued or declared and unpaid on Series C Preferred Shares surrendered for conversion to the date upon which such conversion is deemed to take place as provided in Section 6.B. At the time of each conversion of Series A-B Preferred Stock, except in the event of a Qualified Public Offering, the Corporation shall pay in cash an amount equal to all dividends, accrued but not unpaid on the shares of Series A-B Preferred Stock surrendered for conversion to the date upon which such conversion is deemed to take place as provided in Section 6.B. In case the number of shares of Preferred Stock represented by the certificate or certificates surrendered pursuant to Section 6.A. exceeds the number of shares converted, the Corporation shall, upon such conversion, execute and deliver to the holder, at the expense of the Corporation, a new certificate or certificates for the number of shares of Preferred Stock represented by the certificate or certificates surrendered which are not to be converted.

D. Adjustment of Price Upon Issuance of Common Stock. Except as provided in Section 6.E., if and whenever the Corporation shall issue or sell, or is, in accordance with Sections 6.D.(1) through 6.D.(7), deemed to have issued or sold, any shares of Common Stock for a consideration per share less than the applicable Conversion Price in effect immediately prior to the time of such issue or sale, then, forthwith upon such issue or sale, the applicable Conversion Price shall be reduced to the price determined by dividing (i) an amount equal to the sum of (a) the number of shares of Common Stock outstanding immediately prior to such issue or sale multiplied by the then existing applicable 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 of sale.

For purposes of this Section 6.D., the following Sections 6.D.(1) to 6.D.(7) shall also be applicable:

(1) Issuance of Rights or Options. In case at any time the Corporation shall in any manner grant (whether directly or by assumption in a merger or otherwise) any warrants or other rights to subscribe for or to purchase, or any options for the purchase of Common Stock or any stock or security convertible into or exchangeable for Common Stock (such warrants, rights or options being called "Options" and such convertible or exchangeable stock or securities being called "Convertible Securities") whether or not such Options or the right to convert or exchange any such Convertible Securities are immediately exercisable, and the price per share for which Common Stock is issuable upon the exercise of such Options or upon the conversion or exchange of such Convertible Securities (determined by dividing (i) the total amount, if any, received or receivable by the Corporation as consideration for the granting of such Options, plus the minimum aggregate amount of additional consideration payable to the Corporation upon the exercise of all such Options, plus, in the case of such Options which relate to Convertible Securities, the minimum aggregate amount of additional consideration, if any, payable upon the issue or sale of such Convertible Securities and upon the conversion or exchange thereof, by (ii) the total maximum number of shares of

Common Stock issuable upon the exercise of such Options or upon the conversion or exchange of all such Convertible Securities issuable upon the exercise of such Options) shall be less than the applicable Conversion Price in effect immediately prior to the time of the granting of such Options, then the total maximum number of shares of Common Stock issuable upon the exercise of such Options or upon conversion or exchange of the total maximum amount of such Convertible Securities issuable upon the exercise of such Options shall be deemed to have been issued for such price per share as of the date of granting of such Options or the issuance of such Convertible Securities and thereafter shall be deemed to be outstanding. Except, as otherwise provided in Section 6.D.(3), no adjustment of the applicable Conversion Price shall be made upon the actual issue of such Common Stock or of such Convertible Securities upon exercise of such Options or upon the actual issue of such Common Stock upon conversion or exchange of such Convertible Securities.

(2) Issuance of Convertible Securities. In case the Corporation shall in any manner issue (whether directly or by assumption in a merger or otherwise) or sell any Convertible Securities, whether or not the rights to exchange or convert any such Convertible Securities are immediately exercisable, and the price per share for which Common Stock is issuable upon such conversion or exchange (determined by dividing (i) the total amount received or receivable by the Corporation as consideration for the issue or sale of such Convertible Securities, plus the minimum aggregate amount of additional consideration, if any, payable to the Corporation upon the conversion or exchange thereof, by (ii) the total maximum number of shares of Common Stock issuable upon the conversion or exchange of all such Convertible Securities) shall be less than the applicable Conversion Price in effect immediately prior to the time of such issue or sale, then the total maximum number of shares of Common Stock issuable upon conversion or exchange of all such Convertible Securities shall be deemed to have been issued for such price per share as of the date of the issue or sale of such Convertible Securities and thereafter shall be deemed to be outstanding, provided that (a) except as otherwise provided in Section 6.D.(3), no adjustment of the applicable Conversion Price shall be made upon the actual issue of such Common Stock upon conversion or exchange of such Convertible Securities and (b) if any such issue or sale of such Convertible Securities is made upon exercise of any Options to purchase any such Convertible Securities for which adjustments of the applicable Conversion Price have been or are to be made pursuant to other provisions of this Section 6.D., no further adjustment of the applicable Conversion Price shall be made by reason of such issue or sale.

(3) Change in Option Price or Conversion Rate. Upon the happening of any of the following events, namely, if the purchase provided for in any Option referred to in Section 6.D.(1), the additional consideration, if any, payable upon the conversion or exchange of any Convertible Securities referred to in Sections 6.D.(1) or 6.D.(2), or the rate at which Convertible Securities referred to in Sections 6.D.(1) or 6.D.(2) are convertible into or exchangeable for Common Stock shall change at any time (including but not limited to, changes under or by reason of provisions designed to protect against dilution), the applicable Conversion Price in effect at the time of such event shall forthwith be readjusted to the applicable Conversion Price which would have been in effect at such time had such Options or Convertible

Securities still outstanding provided for such changed purchase price, additional consideration or conversion rate, as the case may be, at the time initially granted, issued or sold, but only if as a result of such adjustment the applicable Conversion Price then in effect hereunder is thereby reduced; and on the termination of any such Option or any such right to convert or exchange such Convertible Securities, the applicable Conversion Price then in effect hereunder shall forthwith be increased to the applicable Conversion Price which would have been in effect at the time of such termination had such Option or Convertible Securities, to the extent outstanding immediately prior to such termination, never been issued.

(4) Stock Dividends. Except for dividends or distributions upon the Common Stock, in the event that the Corporation shall declare a dividend or make any other distribution upon any stock of the Corporation payable in Common Stock, Options or Convertible Securities, any Common Stock, Options or Convertible Securities, as the case may be, issuable in payment of such dividend or distribution shall be deemed to have been issued or sold at a price per share equal to \$.01.

(5) Consideration for Stock. In case any shares of Common Stock, Options or Convertible Securities shall be issued or sold for cash, the consideration received therefor shall be deemed to be the amount received by the Corporation therefor, without deduction therefrom of any expenses incurred or any underwriting commissions or concessions paid or allowed by the Corporation in connection therewith. In case any shares of Common Stock, Options or Convertible Securities shall be issued or sold for a consideration other than cash, the amount of the consideration other than cash received by the Corporation shall be deemed to be the fair value of such consideration as determined in good faith by the Board of Directors of the Corporation, without deduction of any expenses incurred or any underwriting commissions or concessions paid or allowed by the Corporation in connection therewith. In case any Options shall be issued in connection with the issue and sale of other securities of the Corporation, together comprising one integral transaction in which no specific consideration is allocated to such Options by the parties thereto, such Options shall be deemed to have been issued for such consideration as determined in good faith by the Board of Directors of the Corporation.

(6) Record Date. In case the Corporation shall take a record of the holders of its Common Stock for the purpose of entitling them (i) to receive a dividend or other distribution payable in Common Stock, Options or Convertible Securities or (ii) to subscribe for or purchase Common Stock, Options or Convertible Securities, then such record date shall be deemed to be the date of the issue or sale of the shares of Common Stock deemed to have been issued or sold upon the declaration of such dividend or the making of such other distribution or the date of the granting of such right of subscription or purchase, as the case may be.

(7) Treasury Shares. The disposition of any shares of Common Stock owned or held by or for the account of the Corporation shall be considered an issue or sale of Common Stock for the purpose of this Section 6.D.

E. Certain Issues of Common Stock Excepted. Anything herein to the contrary notwithstanding, the Corporation shall not be required to make any adjustment of the applicable Conversion Price in the case of issuance from and after the date of filing of this Second Amended and Restated Articles of Incorporation of (i) up to an aggregate of 1,978,582 shares (appropriately adjusted to reflect the occurrence of any event described Section 6.F.) of Common Stock to directors, officers, employees or consultants of the Corporation in connection with their service as directors of the Corporation, their employment by the Corporation or their retention as consultants by the Corporation, plus such number of shares of Common Stock which are repurchased by the Corporation from such persons after such date pursuant to contractual rights held by the Corporation and at repurchase prices not exceeding the respective original purchase prices paid by such persons to the Corporation therefor, and (ii) any securities to any Person in connection with corporate partnering transactions, equipment financings, bank financings, vendor financings or acquisition of businesses or intellectual property rights, provided that in each such case the subject transaction is approved by the Company's Board of Directors.

F. Subdivision or Combination of Common Stock. In case the Corporation shall at any time subdivide (by any stock split, stock dividend or otherwise) its outstanding shares of Common Stock into a greater number of shares, the applicable Conversion Price in effect immediately prior to such subdivision shall be proportionately reduced, and, conversely, in case the outstanding shares of Common Stock shall be combined into a smaller number of shares, the applicable Conversion Price in effect immediately prior to such combination shall be proportionately increased. In the case of any such subdivision, no further adjustment shall be made pursuant to Subparagraph 6D(4) by reason thereof.

G. Reorganization or Reclassification. If any capital reorganization or reclassification of the capital stock of the Corporation shall be effected in such a way that holder of Common Stock shall be entitled to receive stock, securities or assets with respect to or in exchange for Common Stock, then, as a condition of such reorganization or reclassification, lawful and adequate provisions shall be made whereby each holder of a share or shares of Preferred Stock shall thereupon have the right to receive, upon the basis and upon the terms and conditions specified herein and in lieu of the shares of Common Stock immediately theretofore receivable upon the conversion of such share or shares of Preferred Stock, such shares of stock, securities or assets as may be issued or payable with respect to or in exchange for a number of outstanding shares of such Common Stock equal to the number of shares of such Common Stock immediately theretofore receivable upon such conversion had such reorganization or reclassification not taken place, and in any such case appropriate provisions shall be made with respect to the rights and interests of such holder to the end that the provisions hereof (including, without limitation, provisions for adjustments of the applicable Conversion Price) shall thereafter be applicable, as nearly as may be, in relation to any shares of stock, securities or assets thereafter deliverable upon the exercise of such conversion rights.

H. Failure to Redeem. If the Corporation fails, for any reason or for no reason, to redeem on the applicable Redemption Date (as defined in Paragraph 7 below) the

applicable portion of the Series C Preferred Shares in accordance with the terms and conditions of Paragraph 7, the applicable Conversion Price then in effect with respect to the Series C Shares shall be immediately reduced by an amount equal to 2.5% thereof. Thereafter, until such redemption of Series C Preferred Shares has been made in full in accordance with such terms and conditions, the Applicable Conversion Price shall be further reduced on the 90th day following the applicable Redemption Date and at the end of each 90-day period thereafter by an amount equal to 2.5% of the applicable Conversion Price in effect immediately prior to each such reduction.

I. Notice of Adjustment. Upon any adjustment of the applicable Conversion Price, then and in each such case the Corporation shall give written notice thereof, by mailing such notice by United States Postal Service via Certified or Registered Mail, Return Receipt Requested, addressed to each holder of shares of Preferred Stock at the address of such holder as shown on the books of the Corporation, which notice shall state the applicable Conversion Price resulting from such adjustment, setting forth in reasonable detail the method upon which such calculation is based.

J. Other Notices. In case at any time:

(1) the Corporation shall declare any dividend upon its Common Stock payable in cash or stock or make any other distribution to the holders of its Common Stock;

(2) the Corporation shall offer for subscription pro rata to the holders of its Common Stock any additional shares of stock of any class or other rights; or

(3) there shall be any capital reorganization or reclassification of the capital stock of the Corporation, or a consolidation or merger of the Corporation with or into another entity or entities, or a sale, lease, abandonment, transfer or other disposition of all or substantially all its assets, including, without limitation any Liquidation Event and/or Transaction Event;

then, in any one or more of said cases, the Corporation shall give, by mailing such notice(s) by United States Postal Service via Certified or Registered Mail, Return Receipt Requested, or reputable courier service addressed to each holder of any shares of Preferred Stock at the address of such holder as shown on the books of the Corporation, (a) at least 20 days' prior written notice of the date on which the books of the Corporation shall close or a record shall be taken for such dividend, distribution or subscription rights or for determining rights to vote in respect of any such reorganization, reclassification, consolidation, merger, disposition, dissolution, liquidation or winding up, including, without limitation any Liquidation Event and/or Transaction Event and (b) in the case of any such reorganization, reclassification, consolidation, merger, disposition, dissolution, liquidation or winding up, including, without limitation any Liquidation Event and/or Transaction Event at least 20 days prior written notice of the date when the same shall take place. Such notice in accordance with the foregoing clause (a) shall also specify, in

the case of any such dividend, distribution or subscription rights, the date on which the holders of Common Stock shall be entitled thereto and such notice in accordance with the foregoing clause (b) shall also specify the date on which the holders of Common Stock shall be entitled to exchange their Common Stock for securities or other property deliverable upon such reorganization, reclassification, consolidation, merger, disposition, dissolution, liquidation or winding up, including, without limitation any Liquidation Event and/or Transaction Event, as the case may be.

K. Stock to be Reserved. The Corporation will at all times reserve and keep available out of its authorized Common Stock, solely for the purpose of issuance upon the conversion of Preferred Stock as herein provided, such number of shares of Common Stock as shall then be issuable upon the conversion of all outstanding shares of Preferred Stock. The Corporation covenants that all shares of Common Stock which shall be so issued shall be duly and validly issued and fully paid and nonassessable and free from all taxes, liens and charges with respect to the issue thereof, and, without limiting the generality of the foregoing, the Corporation covenants that it will from time to time take all such action as may be requisite to assure that the par value per share of the Common Stock is at all times equal to or less than the applicable Conversion price in effect at the time. The Corporation will take all such action as may be necessary to assure that all such shares of Common Stock may be so issued without violation of any applicable law or regulation, or of any requirement of any national securities exchange upon which the Common Stock may be listed. The Corporation will not take any action which results in any adjustment of the applicable Conversion price if the total number of shares of Common Stock issued and issuable after such action upon conversion of the Preferred Stock would exceed the total number of shares of Common Stock then authorized by these Articles of Incorporation.

L. No Reissuance of Preferred Stock. Shares of Preferred Stock which are converted into shares of Common Stock as provided herein shall not be reissued.

M. Issue Tax. The issuance of certificates for shares of Common Stock upon conversion of Preferred Stock shall be made without charge to the holders thereof for issuance tax in respect thereof, if any, 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 Preferred Stock which is being converted.

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

O. Definition of Common Stock. As used in this Section 6, the term "Common Stock" shall mean and include the Corporation's authorized Common Stock,

\$0.000001332 par value per share, as constituted on the date of filing of these Second Amended and Restated Articles of Incorporation, and shall also include any capital stock of any class of the Corporation thereafter authorized which shall not be limited to a fixed sum or percentage in respect of the rights of the holders thereof to participate in dividends or 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 Preferred Stock shall include only shares designated as Common Stock of the Corporation on the date of filing of this instrument, or in case of any reorganization or reclassification of the outstanding shares thereof, the stock, securities or assets provided for in Section 6.G.

P. Conversion.

(1) Mandatory Conversion - Qualified Public Offering. If at any time the Corporation shall effect a firm commitment underwritten public offering of shares of Common Stock (i) in which the offering price is at least three times the Conversion Price of the Series B Preferred Shares; and (ii) the proceeds received for such shares by the Corporation (net of underwriting discounts and commissions and offering expenses) shall be at least \$10,000,000 (a "Qualified Public Offering"), then effective upon the closing of the sale of such shares by the Corporation pursuant to such public offering, all outstanding shares of Preferred Stock shall automatically convert to shares of Common Stock on the basis set forth in this Section 6 and (a) any accumulated but unpaid Fixed Dividends shall be canceled and forgiven and (b) any other accumulated but unpaid dividends or any shares of Preferred Stock shall be paid in cash. Holders of shares of Preferred Stock so converted may deliver to the Corporation at its principal office (or such other office or agency of the Corporation as the Corporation may designate by notice in writing to such holders) during its usual business hours, the certificate or certificates for the shares so converted. As promptly as practicable thereafter, the Corporation shall issue and deliver to such holder a certificate or certificates for the number of whole shares of Common Stock to which such holder is entitled, together with any cash payment in lieu of fractional shares to which such holder may be entitled pursuant to Section 6.C. Until such time as a holder of shares of Preferred Stock shall surrender his or its certificates therefor as provided above, such certificates shall be deemed to represent the shares of Common Stock to which such holder shall be entitled upon the surrender thereof. Notwithstanding anything else in these Second Amended and Restated Articles of Incorporation, if at any time the Corporation shall effect a firm commitment underwritten public offering of shares of Common Stock (i) in which the offering price is at least two times the Conversion Price of the Series C Preferred Shares and (ii) the proceeds received for such shares by the Corporation (net of underwriting discounts and commissions and offering expenses) shall be at least \$10,000,000, then effective upon the closing of the sale of such shares by the Corporation pursuant to such public offering, all accumulated but unpaid Fixed Dividends upon the shares of Series C Preferred shall be canceled and forgiven and no Fixed Dividends shall thereafter be paid or payable upon the shares of Series C Preferred.

(2) Voluntary Conversion - Nonqualified Public Offering. If at any time the Corporation shall effect a firm commitment underwritten public offering of shares of Common Stock (i) in which the offering price is not at least three times the Conversion Price of the Series B Preferred Shares; and (ii) the proceeds received for such shares by the Corporation (net of underwriting discounts and commissions and offering expenses) shall not be at least \$10,000,000 (a "Nonqualified Public Offering"), then, the holders of the Series A-B Preferred Stock, in accordance with Sections 6.A., 6.B. and 6.C., may convert their shares to Common Stock and shall be entitled to receive at the time of such conversion an amount equal to the Liquidation Payments, calculated as of the closing of such Nonqualified Public Offering.

(3) Voluntary Conversion - Election of Holders of Preferred Stock. The holders of Series C Preferred Shares may, upon the vote, election or consent of holders of at least a majority (50%) of the outstanding Series C Preferred Shares voting, electing or consenting on a separate series, cause all of the outstanding Series C Preferred Shares to be converted into Common Stock in accordance with this Section 6.

Section 7. Redemption. The shares of Preferred Stock shall be redeemed as follows:

A. Optional Redemption. Commencing at any time on or after December 31, 2004, and on each of the next two anniversaries thereafter (the "Redemption Dates", and each a "Redemption Date"), at the option of the holders of at least twenty five percent (25%) of the then outstanding shares of Series A-B Preferred Stock, voting as a separate series and only with respect to the Series A-B Preferred Stock, and at least a majority (50%) of the then outstanding Series C Preferred Shares, voting as a separate series and only with respect to the Series C Preferred Shares (the "Series C Electing Holders"), then all outstanding shares of Series A-B Preferred Stock and/or all outstanding Series C Preferred Shares, as the case may be, shall be redeemed by the Corporation, at the price and terms stated in this Section 7, and as follows:

<u>On or After</u>	<u>% of Each Series of Preferred Stock then Outstanding</u>
December 31, 2004	33%
December 31, 2005	50%
December 31, 2006	100%

B. Redemption Price and Payment.

(1) Series A-B Preferred Stock. The shares of Series A-B Preferred Stock shall be redeemed by paying for each share in cash an amount equal to the greater of fair-market value or the original purchase price per share plus, in the case of each share, an amount equal to all dividends, declared but unpaid thereon, computed to such Redemption Date, such amount being referred to as the "Series A-B Redemption Price". Such payment shall be made in full on the applicable Redemption Date to the holders entitled thereto.

The fair market value of such shares shall be determined in good faith by the Board of Directors of the Corporation as of each Redemption Date after taking into consideration all factors which it deems appropriate including, without limitation, valuation of comparable publicly-held and privately-held companies, and the liquidation, conversion and other rights and preferences of the Series A-B Preferred Stock, but in each case, without any discount for minority ownership position. The Board of Directors shall notify the holders of Series A-B Preferred Stock as to its determination of the fair market value of such shares at the time of delivery of the Redemption Notice to such holders pursuant to Section 7.D. below. The holders of Series A-B Preferred Stock have the right, after receiving notice of such determination, within five business days of any given Redemption Date, to contest such determination. In such case, the holders of Series A-B Preferred Stock shall have the right to elect an independent appraisal firm, at their own expense, to make such determination, which firm shall be acceptable to the Corporation in its sole discretion. If the independent appraisal firm is not so acceptable, the Corporation shall select an independent appraisal firm, and the independent appraisal firm selected by the Corporation and by the holders shall jointly select a third independent appraisal firm, who shall make such determination. The independent appraisal firm so chosen shall not be informed of the identity of the party paying its fee, and shall make its determination as to the Series A-B Redemption Price within seven business days of engagement, which determination shall be final.

(2) Series C Preferred Shares. The Series C Preferred Shares shall be redeemed by paying for each share in cash an amount equal to the Applicable Liquidation Payment, such amount being referred to as the "Series C Redemption Price" and each of the Series A-B Redemption Price and Series C Redemption Price being sometimes referred to individually as the "Applicable Redemption Price". Such payment shall be made in full on the applicable Redemption Date to the holders entitled thereto. To the extent that determination of the Series C Liquidation Payment, and by definition, the Series C Redemption Price, requires the determination of the fair market value of the shares of any class or series of capital stock of the Corporation, such fair market value shall be determined in good faith by the Board of Directors of the Corporation as of each Redemption Date after taking into consideration all factors which it deems appropriate including, without limitation, valuation or comparable publicly-held and privately-held companies, but without any discount for minority ownership position, lack of marketability or similar factors. The Board of Directors shall notify the holders of Series C Preferred Shares as to its determination of the derived Series C Redemption Price at the time of delivery of the Redemption Notice to such holders pursuant to Section 7.D. below. The Series C Electing Holders shall have the right, after receiving notice of such determination, within five business days of any given Redemption Date, to contest such determination. In such case, Series C Electing Holders shall have the right to elect an independent appraisal firm, at their own expense, to make such determination, which firm shall be acceptable to the Corporation in its sole discretion. If the independent appraisal firm is not so acceptable, the Corporation shall select an independent appraisal firm, at its own expense, and the independent appraisal firm selected by the Corporation and by the Series C Electing Holders shall jointly select a third independent appraisal firm, which shall make such determination. Each of the Corporation and the Series C Electing Holders, as a group, shall pay half of the costs and expenses of the third independent appraisal firm. The independent appraisal firm so chosen

shall not be informed of the identity of the party paying its fee, and shall make its determination as to the Series C Redemption Price within seven business days of engagement, which determination shall be final.

(3) Redemption Procedure. Each redemption of shares of Preferred Stock shall be made so that the number of shares of Preferred Stock held by each registered holder shall be reduced in an amount which shall bear the same ratio to the total number of shares of Preferred Stock being so redeemed as the number of shares of Preferred Stock then held by such registered holder bears to the aggregate number of shares of Preferred Stock then outstanding.

C. Equitable Adjustment. The applicable Redemption Price set forth in this Section 7 shall be subject to equitable dividend, combination, reorganization, recapitalization, reclassification or other similar event involving a change in the Preferred Stock.

D. Redemption Mechanics. If the holders of shares of Series A-B Preferred Stock and/or Series C Preferred Shares elect to have the Corporation redeem all outstanding shares of such series of Preferred Stock as aforesaid, notice to that effect shall be given by such holders to the Corporation at least 60 days prior to the Redemption Date, which notice shall also set forth the date fixed for redemption pursuant to this Section 7 (hereinafter referred to as the "Redemption Date"). If such notice is given, then at least 45 days prior to the Redemption Date, written notice (hereinafter referred to as the "Redemption Notice") shall be mailed, postage prepaid, by the Corporation to each holder of record of each series of Preferred Stock, whether or not such series of Preferred Stock is to be redeemed, at its address shown on the records of the Corporation; provided, however, that the Corporation's failure to give such Redemption Notice shall in no way affect its obligation to redeem the shares of the Preferred Stock as provided in Section 7.A.(2) hereof. The Redemption Notice shall contain the following information:

(i) the number of shares of Preferred Stock of each series held by the holder which shall be redeemed by the Corporation and the total number of shares of Preferred Stock held by all holders to be so redeemed;

(ii) the Redemption Date and the Applicable Redemption Price; and

(iii) that the holder is to surrender to the Corporation, at the place designated therein, its certificate of certificates representing the shares of Preferred Stock to be redeemed.

If the Redemption Notice is given with respect to the redemption of Series A-B Preferred Stock, the requisite percentage of the holders of Series C Preferred Shares may, within seven (7) days of receipt of such Redemption Notice, by notice given to the Corporation (the "Series C Notice"), elect to have the Corporation redeem all outstanding Series C Preferred Shares.

Within seven (7) days of receipt of the Series C Notice, the Corporation shall amend the Redemption Notice to reflect the election by the holders of the requisite percentage of Series C Preferred Shares to have all outstanding Series C Preferred Shares so redeemed by the Corporation and recirculate such Redemption Notice, as amended, to all holders of shares of Preferred Stock.

E. Surrender of Certificates. Each holder of shares of Preferred Stock to be redeemed shall surrender the certificate(s) representing such shares to the Corporation at the place designated in the Redemption Notice, and thereupon the Redemption Price for such shares as set forth in this Section 7 shall be paid to the order of the person whose name appears on such certificate(s) and each surrendered certificate shall be canceled and retired. In the event some but not all of the shares of Preferred Stock represented by certificate(s) surrendered by a holder are being redeemed, the Corporation shall execute and deliver to or on the order of the holder, at the expense of the Corporation, a new certificate representing the number of shares of Preferred Stock which were not redeemed.

F. Dividends and Conversion after Redemption. From and after the later of the Redemption Date of 45 days from the date the Corporation shall have given the Redemption Notice, no shares of Preferred Stock subject to redemption shall be entitled to any further dividends pursuant to Section 7 hereof or to the conversion provisions set forth in Section 7 hereof.

G. Redeemed or Otherwise Acquired Shares to be Retired. Any shares of Preferred Stock redeemed pursuant to this Paragraph 7 or otherwise acquired by the Corporation in any manner whatsoever shall be canceled and shall not under any circumstances be reissued; and the Corporation may from time to time take such appropriate corporation action as may be necessary to reduce accordingly the number of authorized shares of Preferred Stock.

Section 8. Voting Right.

(1) Change in Board Composition. So long as any Series C Preferred Shares remain outstanding (such number of shares being subject to proportional adjustment to reflect any combination or subdivision of such Series C Preferred Shares or dividends declared in shares of such stock), in the event an Event of Default (as defined below) occurs, then the holders of at least a majority (50%) of the outstanding Series C Preferred Shares shall (immediately upon the giving of written notice to the Company by the holders of a majority of the then outstanding Series C Preferred Shares), voting together as a separate class, be entitled to elect such number of directors as will be sufficient to permit the holders of Series C Preferred Shares to elect a majority of the of directors of the Company (such right, the "Voting Right"). Upon the election by the holders of Series C Preferred Shares to exercise the Voting Right, the maximum authorized number of members of the Board of Directors of the Corporation shall automatically be increased to the extent necessary to create any vacancy required by the provisions of this Section 8.A. If, after the election of the additional directors pursuant to this Section 8.A, the Event of Default is cured, then the holders of the Series C Preferred Shares

shall be divested of the Voting Right and the maximum authorized number of members of the Board of Directors of the Corporation shall automatically be reduced to the extent that such number was increased at the time when the terminated Voting Right became operative and the term of office of any director then in office elected by the holders of Series Preferred Shares pursuant to this Section 8.A shall terminate immediately. However, the Voting Right shall again accrue to the holders of Series C Preferred Shares in case of any later occurrence of an Event of Default.

(2) Voting Right Procedure. Whenever under the provisions of this Paragraph 8 hereof, the right shall have accrued to the holders of the Series C Preferred Shares to vote as a single class to elect a majority of the Corporation's directors, the Board of Directors of the Corporation shall, within ten (10) days after delivery to the Corporation at its principal office of a request to such effect by the holders of a majority (50%) of the then outstanding Series C Preferred Shares, call a special meeting of shareholders for the election of directors, to be held upon not less than ten (10) nor more than twenty (20) days' notice to such holders. If such notice of meeting is not given within the ten (10) days required above, the holders of Series C Preferred Shares requesting such meeting may also call such meeting and for such purposes shall have access to the stock books and records of the Corporation. At any meeting so called or at any other meeting held while the holders of shares of Series C Preferred Shares shall have the voting power provided in this Paragraph 8, the holders of a majority of Series C Preferred Shares present in person or by proxy or voting by written consent, shall be sufficient to constitute a quorum for the election of directors as herein provided. In the case of any vacancy in the office of a director occurring among the directors elected by the holders of the Series C Preferred Shares pursuant this Section 8, the remaining directors so elected by that class may by affirmative vote of a majority of such directors (or the remaining director so elected if there be but one) elect a successor or successors to hold office for the unexpired term of the director or directors whose place or places shall be vacant, provided that if there are no remaining directors so elected by that class, the vacancies may be filled by the affirmative vote of the holders of a majority of the then outstanding Series C Preferred Share, voting together as a separate class, given either at a special meeting of such shareholders duly called for that purpose or pursuant to a written consent of shareholders. Any directors who shall have been elected by the holders of Series C Preferred Shares pursuant to this Section 8 or by any directors so elected as provided in the next preceding sentence hereof may be removed during the aforesaid term of office, either with or without cause, by, and only by, the affirmative vote of the holders of a majority of the then outstanding Series C Preferred Shares who elected such director or directors, given either at a special meeting of such shareholders duly called for that purpose or pursuant to a written consent of stockholders, and any vacancy thereby created may be filled by the holders of Series C Preferred Shares represented at such meeting or pursuant to such written consent.

(3) Event of Default. An "Event of Default" shall mean failure of the Corporation to redeem any Series C Preferred Shares as required pursuant to Paragraph 7 hereof.

Section 9. Amendments. No provision of this Article IV may be amended, modified or waived without the written consent or affirmative vote of the holders of at least a majority of

the then outstanding shares of each series of Preferred Stock, in each case voting as a separate class.

ARTICLE V

REGISTERED AGENT AND ADDRESS

The street address of the registered office of this Corporation is and the name of the registered agent of this Corporation at that address is:

Brian Holland
3701 FAU Blvd.
Boca Raton, Florida 33431

ARTICLE V

INDEMNIFICATION

The Corporation shall, to the fullest extent permitted by the laws of Florida, including, but not limited to Section 607.0850 of the Florida Business Corporation Act, as the same may be amended and supplemented from time to time, indemnify any and all directors and officers of the Corporation and may, in the discretion of the Board of Directors of the Corporation, indemnify any and all other persons whom it shall have power to indemnify under said Section or otherwise under Florida law, from and against any and all of the liabilities, expenses or other matters referred to or covered by said Section. The indemnification provisions contained in the Florida Business Corporation Act shall not be deemed exclusive of any other rights of which those indemnified may be entitled under any bylaw, agreement, resolution of shareholders or disinterested directors, or otherwise. No provision of this Amended and Restated Articles of Incorporation is intended by the Corporation to be construed as limiting, prohibiting, denying or abrogating any of the general or specific powers or rights conferred under the Florida Business Corporation Act upon the Corporation, upon its stockholders, bondholders and security holders, or upon its directors, officer and other corporate personnel, including in particular, the power of the Corporation to furnish indemnification to directors, officers, employees and agents (and their heirs, executors and administrators) in the capacities defined and prescribed by the Florida Business Corporation Act and the defined and prescribed rights of said persons to indemnification as the same are conferred under the Florida Business Corporation Act.

ARTICLE VII

SUPER-MAJORITY VOTE FOR BUSINESS COMBINATIONS

A. The affirmative vote of the holders of not less than (i) two-thirds of the outstanding shares of this Corporation's Common Stock voting as one class, and (ii) two-thirds

of the outstanding Series A Preferred Shares, Series B Preferred Shares and Series C Preferred Shares, voting as one class (other than the shares beneficially owned by an "Acquiring Person" as hereinafter defined) shall be required for the approval or authorization of any "Business Combination" (as hereinafter defined) of this Corporation or any subsidiary of this Corporation or any subsidiary of this Corporation with any Acquiring Person, notwithstanding the fact that no vote may be required, or that a lesser percentage may be specified by law or otherwise; provided, however, that the two-thirds voting requirement shall not be applicable and such Business Combination shall require only such affirmative vote as is required by law or otherwise if: (a) the Board of Directors of this Corporation by at least an affirmative vote of a majority of the disinterested directors then on the Board has expressly approved such Business Combination either in advance of or subsequent to such Acquiring Person becoming an Acquiring Person; or (b) as of the date of the consummation of a Business Combination, the holders of a particular class or series of capital stock, as the case may be, of this Corporation receive a "fair price" as such term is defined below.

B. For the purpose of this Article VII:

(1) The term "Business Combination" shall mean any (i) merger or consolidation of this Corporation or a subsidiary of this Corporation with an Acquiring Person or any other corporation which is or after such merger or consolidation would be an "Affiliate" or "associate" (as hereinafter defined) of an Acquiring Person; (ii) sale, lease, exchange, mortgage, pledge or transfer or other disposition (in one transaction or a series of transactions) to or with any Acquiring Person or any Affiliate of any Acquiring Person, of all or substantially all of the assets of this Corporation or a subsidiary of this Corporation to an Acquiring Person or any Affiliate or Associate of any Acquiring Person; (iii) adoption of any plan or proposal for the liquidation or dissolution of this Corporation proposed by or on behalf of an Acquiring Person or any Affiliate or Associate of any Acquiring Person; (iv) reclassification of securities (including any reverse stock split) or recapitalization of this Corporation or any other transaction that would have the effect, either directly or indirectly, of increasing the proportionate share of any subsidiary of this Corporation which is directly or indirectly beneficially owned by an Acquiring Person or any Affiliate or Associate of any Acquiring Person; and (v) an agreement, contract or other arrangement providing for any of the transactions described in this definition of Business Combination.

(2) The term "fair market value" shall mean (i) in the case of shares, the highest closing sale price quoted during the 30-day calendar period immediately preceding the business Combination on the National Association of Securities Dealers, Inc. automated quotations system or any similar system then in general use, or if such shares are listed on an exchange, the highest closing bid quotation with respect to the shares during the 30-day calendar period preceding the date in question, or, if no such quotations are available, the fair market value of a share on the date in question as determined by the affirmative vote of a majority of the disinterested directors then on the Board; and (in the case of property other than cash or shares, the fair market value of such property on the date in question as determined by the affirmative vote of a majority of the disinterested directors then on the Board.

(3) The term "fair price" shall mean that the aggregate amount of cash and the fair market value of consideration other than cash to be received per share are at least equal to the highest of the following: (i) if applicable, the highest per share price, including any brokerage commission, transfer taxes, and soliciting dealers' fees, paid by the Acquiring Person for any shares acquired by it within the two year period immediately preceding the consummation of the Business Combination or the transaction in which it became an Acquiring Person, whichever is higher; or (ii) the fair market value per share.

(4) The term "person" shall mean any individual, firm, corporation or other entity and shall include any group comprised of any person and any other person with whom such person or any Affiliate or Associate of such person has any agreement, arrangement or understanding, directly or indirectly, for the purpose of acquiring, holding, voting or disposing of voting stock of this Corporation.

(5) The term "Acquiring Person" shall mean any person (other than this Corporation, or any subsidiary and other than any profit-sharing, employee stock ownership or other employee benefit plan of this Corporation or any subsidiary or any trustee of or fiduciary with respect to any such plan when acting in such capacity) who or which: (i) is the beneficial owner (as hereinafter defined) of ten percent (10%) or more of the voting stock; (ii) is an Affiliate or Associate of this Corporation and at any time within the two year period immediately prior to the date in question was the beneficial owner of ten percent (10%) or more of the voting stock; (iii) is at such time an assignee of or has otherwise succeeded to the beneficial ownership of any shares of voting stock which were at any time within the two year period immediately prior to the date in question beneficially owned by an Acquiring Person, if such assignment or succession shall have occurred in the course of a transaction or series of transactions not involving a public offering within the meaning of the Securities Act of 1993.

(6) A person shall be a beneficial owner of any voting stock: (i) which such person or any of its Affiliates or Associates beneficially owns, directly or indirectly; or (ii) which such person or any of its Affiliates or Associates has, directly or indirectly, (a) the right to acquire whether such right is exercisable immediately or not, pursuant to any agreement, arrangement or understanding or upon the exercise of conversion rights, exchange rights, warrants or options, or otherwise; (b) the right to vote pursuant to any agreement, arrangement or understanding; or (c) which are beneficially owned, directly or indirectly, by any other person by which such person or any of its Affiliates or Associates has any agreement, arrangement or understanding for the purpose of acquiring, holding, voting or disposing of any shares of voting stock.

(7) The terms "Affiliate" or "Associate" shall have the respective meanings ascribed to such terms in Rule 12b-2 of the General Rules and Regulations under the Securities Exchange Act of 1934, as in effect on August 25, 1993.

(8) An Acquiring Person shall be deemed to have acquired a share of the voting stock of this Corporation at the time when such Acquiring Person became the beneficial owner thereof.

C. The Board of Directors of this Corporation shall have the power and duty to determine for the purposes of this Article VII, on the basis of information known to them after reasonable inquiry (1) whether a person is an Acquiring Person, (2) the number of shares of Common Stock beneficially owned by any person, (3) whether a person is an Affiliate or Associate of another.

D. Noting contained in this Article VII shall be construed to relieve any Acquiring Person or any of its Affiliates or Associates from any fiduciary obligation imposed by law.

ARTICLE VIII **EVALUATION OF BUSINESS COMBINATIONS**

The Board of Directors of this Corporation, when evaluating any offer of another party, (a) to make a tender offer for any securities of this Corporation or (b) to effect a Business Combination (as defined in Article VII) shall, in connection with the exercise of its judgment in determining what is in the best interest of this Corporation as a whole, be authorized to give due consideration of such factors as the Board of Directors determines to be relevant, including, without limitation:

- (i) the interests of this Corporation's shareholders;
- (ii) whether the purposed transaction might violate federal or state laws;
- (iii) the consideration being offered in the proposed transaction, in relation to the then current market price for the outstanding shares of this Corporation over a period of years, the estimated price that might be achieved in a negotiated sale of this corporation as a whole or in part or through orderly liquidation, the premiums over market price for the securities of other companies engaged in similar transactions, current political, economic and other factors bearing on securities' prices and this Corporation's financial condition and future prospects; and
- (vi) the social, legal and economic effects upon employees, suppliers, customers and others having similar relationships with this Corporation, and the communities in which this Corporation conducts its business.

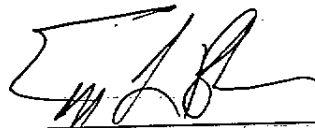
In connection with any such evaluation, the Board of Directors is authorized to conduct such investigations and to engage in such legal proceedings to test the legal propriety of proposed offers or transactions as the Board of Directors may determine.

ARTICLE IX AMENDMENT

This Corporation reserves the right to amend or repeal any provisions contained in these Articles of Incorporation, or any amendment hereto, and any right conferred upon the shareholders is subject to this reservation; provided, however, notwithstanding any other provisions of these Articles of incorporation or the ByLaws of this Corporation (and notwithstanding the fact that a lesser percentage may be specified by law, in these Articles of Incorporation or the ByLaws of the Corporation), the affirmative vote of the holders of not less than two-thirds of the outstanding shares of this Corporation's voting stock (other than the shares beneficially owned by an "Acquiring Person" (as defined in Article VII hereof)), shall be required to amend, repeal or adopt any provisions inconsistent with Articles VII through IX of these Articles of Incorporation, in addition to any affirmative vote required by law or these Articles of Incorporation with respect to any other shares of capital stock of this Corporation.

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The undersigned, ERIC L. BLUM, being the Chief Executive Officer of the Corporation, does make these Amended and Restated Articles of Incorporation, hereby declaring and certifying that his is the act and deed of this Corporation and the facts herein stated are true and accordingly, have herewith set my hand this 14th day of June, 2000.

A handwritten signature in black ink, appearing to read 'E. Blum', written over a horizontal line.

Eric L. Blum, Chief Executive Officer