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## BASIC AMENDMENT

## PARTS LOCATORS INTERNATIONAL, INC.

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**AMENDED AND RESTATED  
ARTICLES OF INCORPORATION  
OF  
PARTS LOCATORS INTERNATIONAL, INC.**  
  
(a Florida corporation)

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TALLAHASSEE, FLORIDA

**PURSUANT** to the provisions of Section 607.1007 of the Florida Business Corporation Act, the undersigned President of **PARTS LOCATORS INTERNATIONAL, INC.**, hereby adopts the following Amended and Restated Articles of Incorporation for such corporation.

1. The present name of the Corporation is **PARTS LOCATORS INTERNATIONAL, INC.** (the "Corporation"). The date of filing its original Articles of Incorporation with the Secretary of State was August 24, 1992.

2. These Amended and Restated Articles of Incorporation were duly adopted by the Board of Directors on September 22, 2000 and the Shareholders of the Corporation on September 28, 2000 in accordance with Sections 607.1003, 607.1006, and 607.1007 of the Florida Business Corporation Act. The holders of the Company's Class A Voting Common Stock, par value \$.001, Class B Non-Voting Common Stock, par value \$.001, Series A Preferred Stock, par value \$.01, and Series B Preferred Stock, par value \$.01, voted separately on the amendment, and the number of votes cast for the amendment by the holders of each such voting class was sufficient for approval by each such voting group.

3. The Articles of Incorporation are hereby amended by being deleted in their entirety and restated as follows:

**ARTICLE I**

**Name**

The name of the Corporation is **PARTS LOCATORS INTERNATIONAL, INC.**

**ARTICLE II**

**Principal Office and Mailing Address**

The principal office and mailing address of the corporation is 11554 Davis Creek Court, Jacksonville, Florida 32256. The location of the principal office shall be subject to change as may be provided in bylaws duly adopted by the Corporation.

**ARTICLE III****Purpose**

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the Florida Business Corporation Act.

**ARTICLE IV****Shares**

The total number of shares of all classes that the Corporation has authority to issue is One Hundred Million (100,000,000) consisting of Seventy Million (70,000,000) shares of Class A Voting Common Stock, par value \$.001 per share, Ten Million (10,000,000) shares of Class B Non-Voting Common Stock, par value \$.001 per share, and Twenty Million (20,000,000) shares of Preferred Stock, par value \$.01 per share. The shares of Preferred Stock may be issued from time to time in one or more series. The Board of Directors of the Corporation is authorized, by filing a certificate or amendment pursuant to the applicable law of the State of Florida, to: (i) establish from time to time the number of shares to be included in each such series; and (ii) fix the preferences, limitations and relative rights, including but not limited to dividend rights, dividend rate, conversion rights, conversion rate, voting rights, rights and terms of redemption (including sinking fund provisions), the redemption price or prices and the liquidation preferences of any wholly unissued series of shares of Preferred Stock.

**A. Common Stock**

**Section 1. General.** The voting, liquidation and dividend rights of the Common Stock are subject to and qualified by the rights of the holders of Preferred Stock.

**Section 2. Class A Voting Common Stock.** Each share of Class A Voting Common Stock is entitled to one (1) vote. There shall be no cumulative voting. In the event of the liquidation, dissolution or winding up of the Corporation, whether voluntary or otherwise, the holders of the Class A Voting Common Stock shall be entitled, after payment of the debts of the Corporation and distributions in full to holders of issued and outstanding Preferred Stock, to their pro rata share of all remaining assets of the Corporation in proportion to the total number of shares of Class A Voting Common Stock and Class B Non-Voting Common Stock then issued and outstanding.

**Section 3. Class B Non-Voting Common Stock.** Except as otherwise required by law, the Class B Non-Voting Common Stock shall have no voting privileges whatsoever. In the event of the liquidation, dissolution or winding up of the Corporation, whether voluntarily or otherwise, the holders of the Class B Non-Voting Common Stock and the holders of the Class A Voting Common Stock shall be entitled, after payment of the debts of the Corporation and distributions in full to holders of issued and outstanding Preferred Stock, to their pro rata share of

all the remaining assets of the Corporation in proportion to the total number of shares of the Class B Non-Voting Common Stock and the Class A Voting Common Stock then issued and outstanding.

**Section 4. Optional Redemption.** Notwithstanding anything contained herein, the Company may redeem any shares of Common Stock at any time if the Majority Preferred Holders and the Board approve such redemption.

**B. Series A and Series C Convertible Preferred Stock**

Four Hundred Thousand (400,000) shares of the Preferred Stock, par value \$.01 per share, of the Corporation are designated as Series A Convertible Preferred Stock ("Series A Preferred") and Eight Million Five Hundred Thousand (8,500,000) shares of the Preferred Stock, par value \$.01 per share, of the Corporation are designated as Series C Convertible Preferred Stock ("Series C Preferred," and together with the Series A Preferred, the "Preferred Stock"), which shares will have the rights and preferences as follows:

**Section 1. Dividends.**

(a) **General Obligation.** When and as declared by the Corporation's Board of Directors and to the extent permitted under the Florida Business Corporation Act, the Corporation shall pay dividends to the holders of the Preferred Stock as provided in this Section 1. In the event that the Corporation declares or pays any dividends upon the Common Stock (whether payable in cash, securities or other property) other than dividends payable solely in shares of Common Stock, the Corporation shall also declare and pay to the holders of shares of Preferred Stock ("Shares") at the same time that it declares and pays such dividends to the holders of the Common Stock, the dividends which would have been declared and paid with respect to the Common Stock issuable upon conversion of such Preferred Stock had all of the outstanding Preferred Stock been converted immediately prior to the record date for such dividend, or if no record date is fixed, the date as of which the record holders of Common Stock entitled to such dividends are to be determined.

(b) **Distribution of Partial Dividend Payments.** Except as otherwise provided herein, if at any time the Corporation pays less than the total amount of dividends then accrued with respect to the Preferred Stock, such payment shall be distributed pro rata among the holders thereof based upon the aggregate Liquidation Value (plus all accrued and unpaid dividends thereon) of Shares held by each such holder.

**Section 2. Liquidation.**

Upon any liquidation, dissolution or winding up of the Corporation (whether voluntary or involuntary), each holder of Preferred Stock shall be entitled to be paid, before any distribution or payment is made upon any Junior Securities, an amount in cash equal to the aggregate Liquidation Value of all Shares held by such holder (plus all accrued and unpaid dividends

thereon) and, except as provided herein, the holders of Preferred Stock shall not be entitled to any further payment. If upon any such liquidation, dissolution or winding up of the Corporation the Corporation's assets to be distributed among the holders of the Preferred Stock are insufficient to permit payment to such holders of the aggregate amount which they are entitled to be paid under this Section 2, then the entire assets available to be distributed to the Corporation's shareholders shall be distributed pro rata among such holders based upon the aggregate Liquidation Value (plus all accrued and unpaid dividends thereon) of the Preferred Stock held by each such holder. Prior to the liquidation, dissolution or winding up of the Corporation, the Corporation shall declare for payment all accrued and unpaid dividends with respect to the Preferred Stock, but only to the extent of funds of the Corporation legally available for the payment of dividends. Not less than sixty (60) days prior to the payment date stated therein, the Corporation shall mail written notice of any such liquidation, dissolution or winding up to each record holder of Preferred Stock, setting forth in reasonable detail the amount of proceeds to be paid with respect to each Share and each share of Common Stock in connection with such liquidation, dissolution or winding up.

**Section 3. Priority of Preferred Stock on Dividends and Redemptions.**

So long as any Preferred Stock remains outstanding, without the prior written consent of the Majority Preferred Holders voting separately as a single class, the Corporation shall not, nor shall it permit any Subsidiary to, redeem, purchase or otherwise acquire directly or indirectly any Junior Securities, nor shall the Corporation directly or indirectly pay or declare any dividend or make any distribution upon any Junior Securities.

**Section 4. Redemptions.**

(a) **Redemption Payments.** For each Share which is to be redeemed hereunder, the Corporation shall be obligated on the Redemption Date to pay to the holder thereof (upon surrender by such holder at the Corporation's principal office of the certificate representing such Share) an amount in cash equal to the Redemption Price of such Share. If the funds of the Corporation legally available for redemption of Shares on any Redemption Date are insufficient to redeem the total number of Shares to be redeemed on such date, those funds which are legally available shall be used to redeem the maximum possible number of Shares pro rata among the holders of the Shares based on the following formula: (i) funds will be allocated to the Series A Preferred vis-à-vis the Series C Preferred pro rata to the aggregate Liquidation Value of the outstanding Shares thereof; and (ii) Shares of each such Series shall be redeemed in accordance with clause (b), below. At any time thereafter when additional funds of the Corporation are legally available for the redemption of Shares, such funds shall immediately be used to redeem the balance of the Shares which the Corporation has become obligated to redeem on any Redemption Date but which it has not redeemed. Prior to any redemption of Preferred Stock, the Corporation shall declare for payment and pay all accrued and unpaid dividends with respect to the Shares which are to be redeemed, but only to the extent of funds of the Corporation legally available for the payment of dividends.

(b) Determination of the Number of Each Holder's Shares to be Redeemed. Except as otherwise provided herein and unless all Shares are to be redeemed, the number of Shares of each Series to be redeemed shall be allocated among holders of that Series pro rata based on their ownership of Shares of that Series.

(c) Dividends After Redemption Date. No Share shall be entitled to any dividends accruing after the date on which the Redemption Price is paid to the holder of such Share. On such date, all rights of the holder of such Share shall cease, and such Share shall no longer be deemed to be issued and outstanding.

(d) Redeemed or Otherwise Acquired Shares. Any Shares which are redeemed or otherwise acquired by the Corporation shall be canceled and retired to authorized but unissued shares and shall not be reissued, sold or transferred.

(e) Payment of Accrued Dividends. The Corporation may not redeem any Preferred Stock, unless all dividends accrued on the outstanding Preferred Stock through the date of such redemption have been declared and paid in full.

(f) Special Redemptions.

(i) If a Change in Ownership has occurred or the Corporation obtains knowledge that a Change in Ownership is proposed to occur, the Corporation shall give prompt written notice of such Change in Ownership describing in reasonable detail the material terms and date of consummation thereof to each holder of Preferred Stock, but in any event such notice shall not be given later than ten (10) days after the occurrence of such Change in Ownership, and the Corporation shall give each holder of Preferred Stock prompt written notice of any material change in the terms or timing of such transaction. The Majority Preferred Holders may require the Corporation to redeem all or any portion of the Preferred Stock owned by such holder or holders at the Redemption Price by giving written notice to the Corporation of such election prior to the later of: (a) twenty-one (21) days after receipt of the Corporation's notice; or (b) five (5) days prior to the consummation of the Change in Ownership (the "Expiration Date"). The Corporation shall give prompt written notice of any such election to all other holders of Preferred Stock within five (5) days after the receipt thereof, and, in the event of such an election by the Majority Preferred Holders, each such other holder shall have until the later of: (a) the Expiration Date, or (b) ten (10) days after receipt of such second notice to request redemption hereunder (by giving written notice to the Corporation) of all or any portion of the Preferred Stock owned by such holder.

Upon receipt of such election(s), the Corporation shall be obligated to redeem the aggregate number of Shares specified therein on the later of: (a) the occurrence of the Change in Ownership; and (b) five (5) days after the Corporation's receipt of such election(s). If any proposed Change in Ownership does not occur, all requests for redemption in connection therewith shall be automatically rescinded, or if there has been a material change in the terms or the timing of the transaction, any holder of Preferred Stock may rescind such holder's request for redemption by giving written notice of such rescission to the Corporation.

The term "Change in Ownership" means any sale, transfer or issuance or series of sales, transfers and/or issuances of shares of the Corporation's capital stock by the Corporation or any holders thereof which results in any Person or group of Persons (as the term "group" is used under the Securities Exchange Act of 1934), other than the holders of Common Stock and Preferred Stock as of the date of the Purchase Agreement, owning capital stock of the Corporation possessing the voting power (under ordinary circumstances) to elect a majority of the Corporation's Board of Directors.

(ii) If a Fundamental Change is proposed to occur, the Corporation shall give written notice of such Fundamental Change describing in reasonable detail the material terms and date of consummation thereof to each holder of Preferred Stock not more than forty-five (45) days nor less than twenty (20) days prior to the consummation of such Fundamental Change, and the Corporation shall give each holder of Preferred Stock prompt written notice of any material change in the terms or timing of such transaction. The Majority Preferred Holders may require the Corporation to redeem all or any portion of the Preferred Stock owned by such holder or holders at the Redemption Price by giving written notice to the Corporation of such election prior to the later of: (a) ten (10) days prior to the consummation of the Fundamental Change; or (b) ten (10) days after receipt of notice from the Corporation. The Corporation shall give prompt written notice of such election to all other holders of Preferred Stock (but in any event within five (5) days prior to the consummation of the Fundamental Change), and, in the event of such election by the Majority Preferred Holders, each such other holder shall have until two (2) days after the receipt of such notice to request redemption (by written notice given to the Corporation) of all or any portion of the Preferred Stock owned by such holder.

Upon receipt of such election(s), the Corporation shall be obligated to redeem the aggregate number of Shares specified therein upon the consummation of such Fundamental Change. If any proposed Fundamental Change does not occur, all requests for redemption in connection therewith shall be automatically rescinded, or if there has been a material change in the terms or the timing of the transaction, any holder of Preferred Stock may rescind such holder's request for redemption by delivering written notice thereof to the Corporation prior to the consummation of the transaction.

The term "Fundamental Change" means: (a) any sale or transfer of more than fifty percent (50%) of the assets of the Corporation and its Subsidiaries on a consolidated basis (measured either by book value in accordance with generally accepted accounting principles consistently applied or by fair market value determined in the reasonable good faith judgment of the Corporation's Board of Directors) in any transaction or series of transactions (other than sales in the ordinary course of business); and (b) any merger or consolidation to which the Corporation is a party, except for a merger in which the Corporation is the surviving corporation, the terms of the Preferred Stock are not changed (and no series or class of equity securities becomes pari passu with or senior in any way to the Preferred Stock) and the Preferred Stock is not exchanged for cash, securities or other property, and after giving effect to such merger, the holders of the Corporation's outstanding capital stock possessing a majority of the voting power (under ordinary circumstances) to elect a majority of the Corporation's Board of

Directors immediately prior to the merger shall continue to own the Corporation's outstanding capital stock possessing the voting power (under ordinary circumstances) to elect a majority of the Corporation's Board of Directors.

(g) **Redemptions upon Request.** At any time after June 30, 2005, the Majority Preferred Holders may request redemption of all of their Shares of Preferred Stock by delivering written notice of such request to the Corporation. Within five (5) days after receipt of such request, the Corporation shall give written notice of such request to all other holders of Preferred Stock, and such other holders may request redemption of their Shares of Preferred Stock by delivering written notice to the Corporation within five (5) days after receipt of the Corporation's notice. The Corporation shall be required to redeem all Shares with respect to which such redemption requests have been made at the Redemption Price within twenty (20) days after receipt of the initial redemption request.

(h) **Optional Redemption.** Notwithstanding anything contained herein, the Company may redeem any Shares of Preferred Stock at any time if the Majority Preferred Holders and the Board approve such redemption.

#### **Section 5. Voting Rights.**

(a) **Election of Directors.** In the election of directors of the Corporation, the holders of the Preferred Stock, voting separately as a single class to the exclusion of all other classes of the Corporation's capital stock (and with each Share of Series C Preferred entitled to one vote and each Share of Series A Preferred entitled to 10 votes), shall be entitled to elect four (4) directors to serve on the Corporation's Board of Directors (the "Board") until such directors' successors are duly elected by the holders of the Preferred Stock or such directors are removed from office by the holders of the Preferred Stock. At such time as no Shares of Preferred Stock are outstanding, any director in office elected solely by the holders of the Preferred Stock voting separately as a class shall remain as a member of the Board, until such time as his successor shall be duly elected by the shareholders of the Corporation then entitled to vote for all directors. If the holders of the Preferred Stock for any reason fail to elect anyone to fill any such directorship, such position shall remain vacant until such time as the holders of the Preferred Stock elect a director to fill such position and such vacancy shall not be filled by resolution or vote of the Board or the Corporation's other shareholders. In order to protect the representation on the Board granted to the holders of the Preferred Stock, any expansion of the number of directors constituting the Board beyond seven (7) members shall require, in addition to any other voting requirement set forth in these Articles of Incorporation, the vote of the Majority Preferred Holders, voting separately as a single class to the exclusion of all other classes of the Corporation's capital stock and with each share of Preferred Stock entitled to one vote.

(b) **Other Voting Rights.** Subject to certain class voting rights granted to the Preferred Stock by law and otherwise, the holders of the Preferred Stock shall be entitled to notice of all shareholders meetings in accordance with the Corporation's bylaws, and except in the election of directors and as otherwise required by applicable law, the holders of the Preferred Stock shall be entitled to vote on all matters submitted to the shareholders for a vote with the



holders of the Class A Voting Common Stock voting together as a single class with each share of Class A Voting Common Stock entitled to one vote per share and each Share of Preferred Stock entitled to one vote for each share of Class A Voting Common Stock issuable upon conversion of the Preferred Stock as of the record date for such vote or, if no record date is specified, as of the date of such vote.

**Section 6. Conversion.**

**(a) Conversion Procedure.**

(i) At any time and from time to time, any holder of Preferred Stock may convert all or any portion of the Preferred Stock (including any fraction of a Share) held by such holder into a number of shares of Conversion Stock computed by multiplying the number of Shares to be converted by \$5.00 for each share of Series A Preferred and \$1.20 for each Share of Series C Preferred and dividing the result by the Conversion Price then in effect with respect to Shares of such Series.

(ii) Except as otherwise provided herein, each conversion of Preferred Stock shall be deemed to have been effected immediately prior to the close of business on the date on which the certificate or certificates representing the Preferred Stock to be converted have been surrendered for conversion at the principal office of the Corporation. At the time any such conversion has been effected, the rights of the holder of the Shares converted as a holder of Preferred Stock shall cease and the Person or Persons in whose name or names any certificate or certificates for shares of Conversion Stock are to be issued upon such conversion shall be deemed to have become the holder or holders of record of the shares of Conversion Stock represented thereby.

(iii) The conversion rights of any Share subject to redemption hereunder shall terminate if a request for redemption has been delivered, as of the close of business on the business day immediately prior to the Redemption Date for such Share unless the Corporation has failed to pay to the holder thereof the Redemption Price.

(iv) As soon as possible after a conversion has been effected (but in any event within ten (10) business days in the case of Section 6(a)(iv)(a) below), the Corporation shall deliver to the converting holder:

- a) a certificate or certificates representing the number of shares of Conversion Stock issuable by reason of such conversion in such name or names and such denomination or denominations as the converting holder has specified;
- b) payment in an amount equal to all accrued dividends with respect to each Share converted which have not been paid

prior thereto, plus the amount payable under Section 6(a)(ix) below with respect to such conversion; and

- c) a certificate representing any Shares of Preferred Stock which were represented by the certificate or certificates delivered to the Corporation in connection with such conversion but which were not converted, if any.

(v) If for any reason the Corporation is unable to pay any portion of the accrued and unpaid dividends on Preferred Stock being converted, such dividends may, at the converting holder's option, be converted into an additional number of shares of Conversion Stock determined by dividing the amount of the unpaid dividends to be applied for such purpose, by the Conversion Price then in effect.

(vi) The issuance of certificates for shares of Conversion Stock upon conversion of Preferred Stock shall be made without charge to the holders of such Preferred Stock for any issuance tax in respect thereof or other cost incurred by the Corporation in connection with such conversion and the related issuance of shares of Conversion Stock. Upon conversion of each Share of Preferred Stock, the Corporation shall take all such actions as are necessary in order to insure that the Conversion Stock issuable with respect to such all be validly issued, fully paid and nonassessable, free and clear of all taxes, liens, charges and encumbrances with respect to the issuance thereof.

(vii) The Corporation shall not close its books against the transfer of Preferred Stock or of Conversion Stock issued or issuable upon conversion of Preferred Stock in any manner which interferes with the timely conversion of Preferred Stock. The Corporation shall assist and cooperate with any holder of Shares required to make any governmental filings or obtain any governmental approval prior to or in connection with any conversion of Shares hereunder (including, without limitation, making any filings required to be made by the Corporation).

(viii) The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Conversion Stock, solely for the purpose of issuance upon the conversion of the Preferred Stock, such number of shares of Conversion Stock issuable upon the conversion of all outstanding Preferred Stock. All shares of Conversion Stock which are so issuable shall, when issued, be duly and validly issued, fully paid and nonassessable and free from all taxes, liens and charges. The Corporation shall take all such actions as may be necessary to assure that all such shares of Conversion Stock may be so issued without violation of any applicable law or governmental regulation or any requirements of any domestic securities exchange or market upon which shares of Conversion Stock may be listed (except for official notice of issuance which shall be immediately

delivered by the Corporation upon each such issuance). The Corporation shall not take any action which would cause the number of authorized but unissued shares of Conversion Stock to be less than the number of such shares required to be reserved hereunder for issuance upon conversion of the Preferred Stock.

(ix) If any fractional interest in a share of Conversion Stock would, except for the provisions of this Section 6(a)(ix), be delivered upon any conversion of the Preferred Stock, the Corporation, in lieu of delivering the fractional share therefor, shall pay an amount to the holder thereof equal to the Market Price of such fractional interest as of the date of conversion.

(x) If the shares of Conversion Stock issuable by reason of conversion of Preferred Stock are convertible into or exchangeable for any other stock or securities of the Corporation, the Corporation shall, at the converting holder's option, upon surrender of the Shares to be converted by such holder as provided herein together with any notice, statement or payment required to effect such conversion or exchange of Conversion Stock, deliver to such holder or as otherwise specified by such holder a certificate or certificates representing the stock or securities into which the shares of Conversion Stock issuable by reason of such conversion are convertible or exchangeable, registered in such name or names and in such denomination or denominations as such holder has specified.

(xi) Notwithstanding any other provision hereof, if a conversion of Preferred Stock is to be made in connection with a Public Offering, a Change in Ownership, a Fundamental Change or other transaction affecting the Corporation, the conversion of any Shares of Preferred Stock may, at the election of the holder thereof, be conditioned upon the consummation of such transaction, in which case such conversion shall not be deemed to be effective until such transaction has been consummated.

(b) Conversion Price.

(i) The initial Series A Conversion Price shall be \$.50 per Share and the initial Series C Conversion Price shall be \$1.20 per Share (the Series A Conversion Price and Series C Conversion Price referred to herein collectively as the "Conversion Price"). In order to prevent dilution of the conversion rights granted under this Section 6, the Conversion Price shall be subject to adjustment from time to time pursuant to this Section 6(b).

(ii) If and whenever on or after the original date of issuance of the Preferred Stock the Corporation issues or sells, or in accordance with Section 6(c) is deemed to have issued or sold, any shares of Common Stock for a consideration per share less than the Conversion Price in effect immediately prior to such time, then immediately upon such issue or sale or deemed issue or sale the Conversion Price shall be reduced to the respective price (calculated to the nearest tenth of a

cent) determined by multiplying such Conversion Price by a fraction, the numerator of which shall be the number of shares of Common Stock outstanding immediately prior to such issue (together with the number of shares of Common Stock then issuable upon conversion of the outstanding shares of Preferred Stock and the conversion or exercise of any Convertible Securities or Options), plus the number of shares of Common Stock which the aggregate consideration received by the Corporation (or deemed to have been received pursuant to Section 6(c)) for the total number of shares of Common Stock so issued would purchase at the Conversion Price in effect immediately prior to such issuance and the denominator of which shall be the number of shares of Common Stock outstanding immediately prior to such issuance (together with such shares issuable upon any such conversion or exercise) plus the number of shares so issued. Notwithstanding anything to the contrary contained in Section 6(c), the Conversion Price shall never be increased above \$.50 per Share in the case of Series A Preferred or \$1.20 per Share in the case of Series C Preferred, in each case as adjusted pursuant to Section 6(d).

(iii) Notwithstanding the foregoing, there shall be no adjustment to the Conversion Price hereunder with respect to (a) the granting of stock options, with an exercise price per share of not less than ninety percent (90%) of the price per share paid for the Preferred Stock pursuant to the Purchase Agreement (as equitably adjusted for subsequent stock splits, stock combinations, stock dividends and recapitalizations), pursuant to a plan adopted by the Board or a committee thereof, to employees or directors of, or consultants to, the Corporation and its Subsidiaries or the exercise thereof for an aggregate of 2,016,667 shares of Common Stock (as such number of shares is equitably adjusted for subsequent stock splits, stock combinations, stock dividends and recapitalizations and such number shall include all stock options outstanding as of the date of the Purchase Agreement) (the "Approved Options"), (b) the issuance of Conversion Stock upon conversion of Shares of Preferred Stock, (c) the issuance of Common Stock in a Qualified Public Offering, (d) the issuance of Common Stock to a third Person pursuant to an acquisition which acquisition has been approved by the Board or (e) any issuance approved by the Board and the Majority Preferred Holders.

(c) Effect on Conversion Price of Certain Events. For purposes of determining the adjusted Conversion Price under Section 6(b), the following shall be applicable:

(i) Issuance of Rights or Options. If, on or after the date hereof, the Corporation in any manner grants or sells any Option (other than an Approved Option) and the lowest price per share for which any one share of Common Stock is issuable upon the exercise of any such Option, or upon conversion or exchange of any Convertible Security issuable upon exercise of any such Option, is less than the Conversion Price in effect immediately prior to the time of the granting or sale of such Option, then such share of Common Stock shall be deemed to be

outstanding and to have been issued and sold by the Corporation at the time of the granting or sale of such Option for such price per share. For purposes of this paragraph, the "lowest price per share for which any one share of Common Stock is issuable" shall be equal to the sum of the lowest amounts of consideration (if any) received or receivable by the Corporation with respect to any one share of Common Stock upon the granting or sale of the Option, upon exercise of the Option and upon conversion or exchange of any Convertible Security issuable upon exercise of such Option. No further adjustment of the Conversion Price shall be made upon the actual issue of such Common Stock or such Convertible Security upon the exercise of such Options or upon the actual issue of such Common Stock upon conversion or exchange of such Convertible Security.

(ii) Issuance of Convertible Securities. If, on or after the date hereof, the Corporation in any manner issues or sells any Convertible Security and the lowest price per share for which any one share of Common Stock is issuable upon conversion or exchange thereof is less than the Conversion Price in effect immediately prior to the time of such issue or sale, then such share of Common Stock shall be deemed to be outstanding and to have been issued and sold by the Corporation at the time of the issuance or sale of such Convertible Securities for such price per share. For the purposes of this paragraph, the "lowest price per share for which any one share of Common Stock is issuable" shall be equal to the sum of the lowest amounts of consideration (if any) received or receivable by the Corporation with respect to any one share of Common Stock upon the issuance or sale of the Convertible Security and upon the conversion or exchange of such Convertible Security. No further adjustment of the Conversion Price shall be made upon the actual issue of such Common Stock upon conversion or exchange of any Convertible Security, and if any such issue or sale of such Convertible Security is made upon exercise of any Options for which adjustments of the Conversion Price had been or are to be made pursuant to other provisions of this Section 6, no further adjustment of the Conversion Price shall be made by reason of such issue or sale.

(iii) Change in Option Price or Conversion Rate. If the purchase price provided for in any Option (including an Approved Option), the additional consideration (if any) payable upon the issue, conversion or exchange of any Convertible Security or the rate which any Convertible Security is convertible into or exchangeable for Common Stock changes at any time, the Conversion Price in effect at the time of such change shall be adjusted immediately to the Conversion Price which would have been in effect at such time had such Option or Convertible Security originally provided for such changed purchase price, additional consideration or conversion rate, as the case may be, at the time initially granted, issued or sold; provided that no such adjustment of the Conversion Price shall result in an increase in the Conversion Price then in effect. For purposes of this Section 6(c), if the terms of any Option or Convertible Security which was outstanding as of the date of issuance of the Preferred Stock

are changed in the manner described in the immediately preceding sentence, then such Option or Convertible Security and the Common Stock deemed issuable upon exercise, conversion or exchange thereof shall be deemed to have been issued as of the date of such change.

(iv) Treatment of Expired Options and Unexercised Convertible Securities. Upon the expiration of any Option or the termination of any right to convert or exchange any Convertible Security without the exercise of any such Option or right, the Conversion Price then in effect hereunder shall be adjusted immediately to the Conversion Price which would have been in effect at the time of such expiration or termination had such Option or Convertible Security, to the extent outstanding immediately prior to such expiration or termination, never been issued; provided that no such expiration or termination shall result in an increase in the Conversion Price above that in effect on the date hereof. For purposes of Section 6(c), the expiration or termination of any Option or Convertible Security which was outstanding as of the date of issuance of the Preferred Stock shall not cause the Conversion Price hereunder to be adjusted unless, and only to the extent that, a change in the terms of such Option or Convertible Security caused it to be deemed to have issued after the date of issuance of the Preferred Stock.

(v) Calculation of Consideration Received. If any Common Stock, Option or Convertible Security is issued or sold or deemed to have been issued or sold for cash, the consideration received therefor shall be deemed to be the amount received by the Corporation therefor (net of discounts, commissions and related expenses). If any Common Stock, Option or Convertible Security is issued or sold for a consideration other than cash, the amount of the consideration other than cash received by the Corporation shall be the fair value of such consideration, except where such consideration consists of securities, in which case the amount of consideration received by the Corporation shall be the Market Price thereof as of the date of receipt. If any Common Stock, Option or Convertible Security is issued to the owners of the non-surviving entity in connection with any merger in which the Corporation is the surviving corporation, the amount of consideration therefor shall be deemed to be the fair value of such portion of the net assets and business of the non-surviving entity as is attributable to such Common Stock, Option or Convertible Security, as the case may be. The fair value of any consideration other than cash and securities shall be determined jointly by the Corporation and the Majority Preferred Holders. If such parties are unable to reach agreement within a reasonable period of time, the fair value of such consideration shall be determined by an independent appraiser experienced in valuing such type of consideration jointly selected by the Corporation and the Majority Preferred Holders. The determination of such appraiser shall be final and binding upon the parties, and the fees and expenses of such appraiser shall be borne by the Corporation.

(vi) Integrated Transactions. In case any Option or Convertible Security is issued in connection with the issue or sale of other securities of the Corporation, together comprising one integrated transaction in which no specific consideration is allocated to such Option or Convertible Security by the parties thereto, the Option or Convertible Security shall be deemed to have been issued for a consideration of \$.01.

(vii) Treasury Shares. The number of shares of Common Stock outstanding at any given time shall not include shares owned or held by or for the account of the Corporation or any Subsidiary, and the disposition of any shares so owned or held shall be considered an issue or sale of Common Stock.

(viii) Record Date. If the Corporation takes a record of the holders of Common Stock for the purpose of entitling them: (a) to receive a dividend or other distribution payable in Common Stock, Options or in Convertible Securities; or (b) 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 upon the making of such other distribution or the date of the granting of such right of subscription or purchase, as the case may be.

(d) Subdivision or Combination of Common Stock. If the Corporation at any time subdivides (by any stock split, stock dividend, recapitalization or otherwise) one or more classes of its outstanding shares of Common Stock into a greater number of shares, the Conversion Price in effect immediately prior to such subdivision shall be proportionately reduced, and if the Corporation at any time combines (by reverse stock split or otherwise) one or more classes of its outstanding shares of Common Stock into a smaller number of shares, the Conversion Price in effect immediately prior such combination shall be proportionately increased.

(e) Reorganization, Reclassification, Consolidation, Merger or Sale. Any recapitalization, reorganization, reclassification, consolidation, merger, sale of all or substantially all of the Corporation's assets or other transaction, in each case which is effected in such a manner that the holders of Common Stock are entitled to receive (either directly or upon subsequent liquidation) stock, securities or assets with respect to or in exchange for Common Stock, is referred to herein as an "Organic Change." Prior to the consummation of any Organic Change, the Corporation shall make appropriate provisions to insure that each of the holders of Preferred Stock shall thereafter have the right to acquire and receive, in lieu of or in addition to (as the case may be) the shares of Conversion Stock immediately theretofore acquirable and receivable upon the conversion of such holder's Preferred Stock, such shares of stock, securities or assets as such holder would have received in connection with such Organic Change if such holder had already converted. In each such case, the Corporation shall also make appropriate provisions to insure that the provisions of this Section 6 and Section 8 hereof and the other relevant provisions hereof shall thereafter be applicable to the Preferred Stock (including, in the

case of any such consolidation, merger or sale in which the successor entity or purchasing entity is other than the Corporation, an immediate adjustment of the Conversion Price to the value for the Common Stock reflected by the terms of such consolidation, merger or sale, and a corresponding immediate adjustment in the number of shares of Conversion Stock acquirable and receivable upon conversion of Preferred Stock, if the value so reflected is less than the Conversion Price in effect immediately prior to such consolidation, merger or sale). The Corporation shall not effect any such consolidation, merger or sale, unless prior to the consummation thereof, the successor entity (if other than the Corporation) resulting from consolidation or merger or the entity purchasing such assets assumes by written instrument, the obligation to deliver to each such holder such shares of stock, securities or assets as, in accordance with the foregoing provisions, such holder may be entitled to acquire.

(f) Certain Events. If any event occurs of the type contemplated by the provisions of this Section 6 but not expressly provided for such provisions (including, without limitation, the granting of stock appreciation rights, phantom stock rights or other rights with equity features), then the Board shall make an appropriate adjustment in the Conversion Price so as to protect the rights of the holders of Preferred Stock; provided that no such adjustment shall increase the Conversion Price as otherwise determined pursuant to this Section 6 or decrease the number of shares of Conversion Stock issuable upon conversion of each Share of Preferred Stock.

(g) Notices.

(i) Immediately upon any adjustment of the Conversion Price, the Corporation shall give written notice thereof to all holders of Preferred Stock, setting forth in reasonable detail and certifying the calculation of such adjustment.

(ii) The Corporation shall give written notice to all holders of Preferred Stock at least twenty (20) days prior to the date on which the Corporation closes its books or takes a record: (a) with respect to any dividend or distribution upon Common Stock; (b) with respect to any pro rata subscription offer to holders of Common Stock; or (c) for determining rights to vote with respect to any Organic Change, dissolution or liquidation.

(iii) The Corporation shall also give written notice to the holders of Preferred Stock at least twenty (20) days prior to the date on which any Organic Change shall take place.

(h) Conversion at the Corporation's Option. The Corporation may at any time require the conversion of all of the outstanding Preferred Stock if the Corporation is at such time effecting a Qualified Public Offering. Any such mandatory conversion shall only be effected at the time of and subject to the closing of the sale of such shares pursuant to such Qualified Public Offering and upon written notice of such mandatory conversion delivered to all holders of Preferred Stock at least thirty (30) days prior to such closing.



## Section 7. [Reserved]

Section 8. Preemptive Rights.

(a) Right to Purchase Pro Rata Share. Each holder of Preferred Stock and its successors and permitted assigns shall have the right on the terms (including the limitations) set forth herein, to purchase such holder's Pro Rata Share of Additional Securities (as hereinafter defined) which the Corporation may, after the date hereof, from time to time, propose to sell and issue for cash or other consideration. As used herein, "Pro Rata Share" means the ratio of (i) the number of shares of Common Stock into which a holder of Preferred Stock could convert its Shares of Preferred Stock on the date in question to (ii) the total number of shares of Common Stock then outstanding, assuming the conversion of all outstanding shares of Preferred Stock.

(b) "Additional Securities." "Additional Securities" shall mean any authorized but unissued shares, and any treasury shares, of capital stock of the Corporation and all rights, options or warrants to purchase capital stock, and securities of any type whatsoever that are, or may become, convertible into capital stock; provided, however, that the term "Additional Securities" does not include:

(i) Preferred Stock issued under the Purchase Agreement or the Conversion Stock into which it is converted.

(ii) equity securities issued pursuant to a Qualified Public Offering or in connection with the acquisition of a business approved by the Board.

(iii) up to 400,000 shares of Common Stock or securities convertible thereinto (subject to adjustment from time to time for any stock splits, stock dividends, recombinations, mergers, reclassifications, recapitalizations or any similar event) issued to institutions which are not Affiliates of any holder of Common Stock or Preferred Stock as consideration for or in connection with any credit facilities obtained by the Corporation.

(iv) equity securities issued in connection with any stock split, stock dividend or reclassification of Common Stock distributable on a pro rata basis to all holders of Common Stock.

(v) shares of Common Stock issuable upon exercise of Approved Options or the issuance of Approved Options.

(c) Procedure. In the event the Corporation proposes to undertake an issuance of Additional Securities, it shall give the holders of Preferred Stock written notice of its intention, describing the type of Additional Securities, the consideration and the general terms upon which the Corporation proposes to issue the same. Each such holder shall have ten (10) days from the date of receipt of any such notice to agree to purchase its Pro Rata Share of such Additional Securities for the cash or cash equivalent consideration and upon the general terms specified in the notice by giving written notice to the Corporation and stating therein the quantity

of Additional Securities to be purchased. In the event that any holder of Preferred Stock elects to purchase less than its Pro Rata Share of the Additional Securities so offered, the Pro Rata Share of such holder not so purchased may be elected to be purchased within such period by the other holders of Preferred Stock in such proportion as is agreed by such holders or, failing agreement, in proportion to the shares of Common Stock into which each such holder desiring to purchase such Additional Securities could convert his Preferred Stock.

(d) Nonexercise of Right. In the event a holder of Preferred Stock fails to exercise the above rights within said ten (10) day period, the Corporation shall have 120 days thereafter to sell the Additional Securities respecting which any such Person's private preemptive right was not exercised, at a cash or cash equivalent price and upon general terms no more favorable to the purchasers thereof than specified in the notice given pursuant to Section 8(c). In the event the Corporation has not sold the Additional Securities within said 120-day period, the Corporation shall not thereafter issue or sell any Additional Securities, without first offering a portion of such securities to the holders of Preferred Stock as provided in this Section 8.

#### Section 9. Events of Noncompliance.

(a) Definition. If any of the following shall have occurred and the Corporation shall have received notice from any holder of Preferred Stock, an Event of Noncompliance shall have occurred; provided, however, that the Majority Preferred Holders may waive any Event of Noncompliance:

(i) the Corporation fails to pay on any date of payment for any dividend the full amount of dividends then accrued on the Preferred Stock, whether or not such payment is legally permissible or is prohibited by any agreement to which the Corporation is subject;

(ii) the Corporation fails to make in full any redemption payment with respect to the Preferred Stock which it is required to make hereunder, whether or not such payment is legally permissible or is prohibited by any agreement to which the Corporation is subject;

(iii) the Corporation breaches or otherwise fails to perform or observe any other material covenant or material agreement set forth herein or in the Purchase Agreement or in any other agreement to which the Majority Preferred Holders and the Corporation are parties, and the Corporation continues to do so for any applicable grace period (or, if none, for thirty (30) days);

(iv) any material representation or material warranty contained in the Purchase Agreement or required to be furnished to any holder of Preferred Stock pursuant to the Purchase Agreement or any other agreement to which the Majority Preferred Holders and the Corporation are parties, or any information contained in writing furnished by the Corporation to the Majority Preferred Holders, is false or misleading in any material respect on the date made or furnished;

(v) the Corporation or any Subsidiary makes an assignment for the benefit of creditors or admits in writing its inability to pay its debts generally as they become due; or an order, judgment or decree is entered adjudicating the Corporation or any Subsidiary bankrupt or insolvent; or any order for relief with respect to the Corporation or any Subsidiary is entered under the Federal Bankruptcy Code; or the Corporation or any Subsidiary petitions or applies to any tribunal for the appointment of a custodian, trustee, receiver or liquidator of the Corporation or any Subsidiary or of any substantial part of the assets of the Corporation or any Subsidiary, or commences any proceeding (other than a proceeding for the voluntary liquidation or dissolution of a Subsidiary) relating to the Corporation or any Subsidiary under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction; or any such petition or application is filed, or any such proceeding is commenced against the Corporation or any Subsidiary and either (a) the Corporation or any Subsidiary by any act indicates its approval thereof, consent thereto or acquiescence therein or (b) such petition, application or proceeding is not dismissed within sixty (60) days;

(vi) a judgment in excess of \$50,000 is rendered against the Corporation or any Subsidiary and, within thirty (30) days after entry thereof, such judgment is not discharged or execution thereof stayed pending appeal, or within thirty (30) days after the expiration of any such stay, such judgment is not discharged;

(vii) the Corporation or any Subsidiary defaults in the performance of any obligation or agreement if the effect of such default is to cause an amount exceeding \$50,000 to become due prior to its stated maturity or to permit the holder or holders of any obligation to cause an amount exceeding \$50,000 to become due prior to its stated maturity, in any case which is not cured within thirty (30) days of such acceleration, and the Corporation makes payment of any portion of such amount, the Corporation admits or confesses that such amount is due, or a judgment is entered reflecting that such amount is due;

(viii) the Corporation or any Subsidiary defaults in the performance of any covenant or agreement under any credit facility under which the Corporation may incur indebtedness in excess of \$100,000, which is not cured or waived within ninety (90) days; or

(ix) the Corporation's chief executive officer (as of the date of the Purchase Agreement) shall cease to be employed by the Corporation for any reason and is not replaced within 180 days by the mutual approval of a majority of the Board and the Majority Preferred Holders.

(b) Consequences of Events of Noncompliance.

(i) If an Event of Noncompliance has occurred and is continuing, the Preferred Stock shall immediately be entitled to a dividend accruing daily at the rate of twelve percent (12%) of the Liquidation Value per annum, which shall be declared payable by the Board quarterly following the date the Event of Noncompliance. Any increase of the dividend rate resulting from the operation of this subparagraph shall terminate as of the close of business on the date on which no Event of Noncompliance exists, subject to subsequent increases pursuant to this paragraph. Dividends payable pursuant to this Section 9(b) shall be payable in cash or in Preferred Stock at the option of the Majority Preferred Holders.

(ii) If an Event of Noncompliance has occurred and is continuing, the Majority Preferred Holders may demand (by written notice delivered to the Corporation) immediate redemption of all or any portion of the Preferred Stock owned by such holder or holders at a price per Share equal to the Redemption Price. The Corporation shall give prompt written notice of such election to the other holders of Preferred Stock (but in any event within five (5) days after receipt of the initial demand for redemption), and each such other holder may demand immediate redemption of all or any portion of such holder's Preferred Stock by giving written notice thereof to the Corporation within seven days after receipt of the Corporation's notice. The Corporation shall redeem all Preferred Stock as to which rights under this paragraph have been exercised within fifteen (15) days after receipt of the initial demand for redemption.

(iii) If an Event of Noncompliance of the type described in Section 9(a)(v) has occurred, the Corporation shall immediately redeem all of the Preferred Stock then outstanding (without any action on the part of the holders of the Preferred Stock) at a price per Share equal to the Liquidation Value thereof (plus all accrued and unpaid dividends thereon).

(iv) If any Event of Noncompliance exists, each holder of Preferred Stock shall also have other rights which such holder is entitled to under any contract or agreement at any time and any other rights which such holder may have pursuant to applicable law.

**Section 10. Registration of Transfer.**

The Corporation shall keep at its principal office a register for the registration of Preferred Stock. Upon the surrender of any certificate representing Preferred Stock at such place, the Corporation shall, at the request of the record holder of such certificate, execute and deliver (at the Corporation's expense) a new certificate or certificates in exchange therefor representing in the aggregate the number of Shares represented by the surrendered certificate. Each such new certificate shall be registered in such name and shall represent such number of Shares as is requested by the holder of the surrendered certificate and shall be substantially identical in form to the surrendered certificate, and dividends shall accrue on the Preferred Stock represented by such new certificate from the date to which dividends have been fully paid on such Preferred Stock represented by the surrendered certificate.

**Section 11. Replacement.**

Upon receipt of evidence reasonably satisfactory to the Corporation (an affidavit of the registered holder shall be satisfactory) of the ownership and the loss, theft, destruction or mutilation of any certificate evidencing Shares of Preferred Stock, and in the case of any such loss, theft or destruction, upon receipt of indemnity reasonably satisfactory to the Corporation (provided that if the holder is a financial institution or other institutional investor its own agreement shall be satisfactory), or, in the case of any such mutilation or surrender of such certificate, the Corporation shall (at its expense) execute and deliver in lieu of such certificate a new certificate of like kind representing the number of Shares of such class represented by such lost, stolen, destroyed or mutilated certificate and dated the date of such lost, stolen, destroyed or mutilated certificate, and dividends shall accrue on the Preferred Stock represented by such new certificate from the date to which dividends have been fully paid on such lost, stolen, destroyed or mutilated certificate.

**Section 12. Definitions.**

"Additional Securities" has the meaning set forth in Section 8(b).

"Affiliate" means a Person that directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the Person specified.

"Approved Options" has the meaning set forth in Section 6(b).

"As-Converted Basis" means that with respect to the calculation at issue, each holder of any stock option, warrant, convertible security or similar right shall be treated as owning that number of shares of Common Stock or any other security into which such stock option, warrant, convertible security or similar right may be exercised, converted or exchanged on the date of such calculation, whether or not such option, warrant, convertible security or other right is then convertible, exercisable, or exchangeable.

"Board" shall have the meaning set forth in Section 5(a).

**"Change in Ownership"** has the meaning set forth in Section 4(f).

**"Common Stock"** means, collectively, the Corporation's Class A Voting Common Stock, par value \$.001 per share, and Class B Non-Voting Common Stock, par value \$.001 per share.

**"Conversion Price"** has the meaning set forth in Section 6(b).

**"Conversion Stock"** means shares of Class A Voting Common Stock, par value \$.001 per share, provided that if there is a change such that the securities issuable upon conversion of the Preferred Stock are issued by an entity other than the Corporation or there is a change in the class of securities so issuable, then the term "Conversion Stock" shall mean one share of the security issuable upon the conversion of the Preferred Stock if such security is issuable in shares, or shall mean the smallest unit in which such security is issuable if such security is not issuable in shares.

**"Convertible Security"** means any stock or securities directly or indirectly convertible into or exchangeable for Common Stock other than Options.

**"Fundamental Change"** has the meaning set forth in Section 4(f).

**"Junior Securities"** means any capital stock or other equity securities of the Corporation, except for the Preferred Stock.

**"Liquidation Value"** of any Share of Series A Preferred as of any particular date shall be equal to \$5.00 and of any Share of Series C Preferred as of any particular date shall be equal to \$1.20.

**"Majority Preferred Holders"** means the majority of votes which could be cast by all holders of Preferred Stock where each share of Preferred Stock is entitled to that number of votes equal to the number of shares of Common Stock into which it may be converted, in each event voting as a single class. For example, if the Series A Preferred is convertible into 10 shares of Class A Voting Common Stock and the Series C Preferred is convertible into one share of such Common Stock, then in any determination of Majority Preferred Holders each share of Series A Preferred would be afforded 10 votes and each share of Series C Preferred would be afforded one vote. As to any particular shares, such shares shall cease to be included in the determination of Majority Preferred Holders when they have been: (a) redeemed by the Company; (b) effectively registered under the Securities Act and disposed of in accordance with the registration statement covering them; (c) distributed to the public through a broker, dealer, or market maker pursuant to Rule 144 under the Securities Act (or any similar rule then in force); or (d) distributed pursuant to Rule 144(k) under the Securities Act (or any similar rule then in effect).

**"Market Price"** of any security means the average of the closing prices of such security's sales on all securities exchanges on which such security may at the time be listed, or, if there has been no sales on any such exchange on any day, the average of the highest bid and lowest asked prices on all such exchanges at the end of such day, or, if on any day such security is not so listed the average of the representative bid and asked prices quoted in the NASDAQ System as of 4:00 P.M., New York time, or, if on any day such security is not quoted in the NASDAQ System, the average of the highest bid and lowest asked prices on such day in the domestic over-the-counter market as reported by the National Quotation Bureau, Incorporated, or any similar successor organization, in each such case averaged over a period of twenty-one (21) days consisting of the trading day immediately prior to the day as of which "Market Price" is being determined and the twenty (20) consecutive trading days prior to such day. If at any time such security is not listed on any securities exchange or quoted in the NASDAQ System or the over-the counter market, the "Market Price" shall be the fair value thereof determined jointly by the Corporation and the Majority Preferred Holders. If such parties are unable to reach agreement within a reasonable period of time, such fair value shall be determined by an independent appraiser experienced in valuing securities jointly selected by the Corporation and the Majority Preferred Holders. The determination of such appraiser shall be final and binding upon the parties, and the Corporation shall pay the fees and expenses of such appraiser.

**"Options"** means any rights, warrants or options to subscribe for or purchase Common Stock or Convertible Securities.

**"Person"** means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization and a governmental entity or any department, agency or political subdivision thereof.

**"Pro Rata Share"** has the meaning set forth in Section 8(a).

**"Public Offering"** means any offering by the Corporation of its capital stock or equity securities to the public pursuant to an effective registration statement under the Securities Act of 1933, as then in effect, or any comparable statement under the similar federal statute then in force.

**"Purchase Agreement"** means the Series C Convertible Preferred Stock Purchase Agreement, dated as of September 29, 2000, by and among the Corporation and one or more investors, as such agreement may from time to time be amended in accordance with its terms.

**"Qualified Public Offering"** means a firm commitment underwritten Public Offering of shares of Common Stock in which: (i) the aggregate price paid by the public for the shares shall be at least \$20,000,000; (ii) the price per share paid by the public for such shares shall be at least three hundred percent (300%) of the Conversion Price in effect immediately prior to the closing of the sale of such shares pursuant to the Public Offering; and (iii) the holders of the Preferred Stock are permitted to include and sell in such Public Offering, as a Piggyback Registration (as defined in the Registration Agreement) under the Registration Agreement, subject to reduction in

the number of such shares to be sold due to underwriting limitations, all Registrable Securities (as defined in the Registration Agreement).

**"Redemption Date"** as to any Share means the date specified in the notice of any redemption at the holder's option or the applicable date specified herein in the case of any other redemption; provided that no such date shall be a Redemption Date unless the Redemption Price of such Share (plus all accrued and unpaid dividends thereon and any required premium with respect thereto) is actually paid in full on such date, and if not so paid in full, the Redemption Date shall be the date on which such amount is fully paid.

**"Redemption Price"** per Share means the greater of (i) the sum of the Market Price of the Common Stock into which such Share may be converted (without any discounts based on minority ownership or lack of liquidity) plus all accrued and unpaid dividends thereon, provided, however, that if the request occurs after September 29, 2005, all accrued and unpaid dividends may be paid, at the holder's option, in cash or in shares of Common Stock into which such Share may be converted valued at the then Market Price of such Common Stock, and (ii) the Liquidation Value thereof (plus all accrued and unpaid dividends thereon).

**"Registration Agreement"** means the Registration Agreement as defined in the Purchase Agreement.

**"Securities Act"** means the Securities Act of 1933, as amended.

**"Series A Conversion Price"** means \$.50 per Share, subject to adjustment as set forth in Section 6.

**"Series C Conversion Price"** means \$1.20 per Share, subject to adjustment as set forth in Section 6.

**"Shares"** has the meaning set forth in Section 1.

**"Subsidiary"** means, with respect to any Person, any corporation, limited liability company, partnership, association or other business entity of which (i) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof, is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof, or (ii) if a limited liability company, partnership, association or other business entity, a majority of the partnership or other similar ownership interests thereof is at the time owned or controlled, directly or indirectly, by any Person or one or more Subsidiaries of that person or a combination thereof. For purposes hereof, a Person or Persons shall be deemed to have a majority ownership interest in a limited liability company, partnership, association or other business entity if such Person or Persons shall be allocated a majority of limited liability company, partnership, association or other business entity



gains or losses or shall be or control the managing general partner of such limited liability company, partnership, association or other business entity.

**Section 13. Amendment and Waiver.**

No amendment, modification or waiver shall be binding or effective with respect to any provision of Sections 1 to 14 hereof without the prior written consent of the Majority Preferred Holders; provided that no such action shall change (a) the rate at which or the manner in which dividends on the Preferred Stock accrue or the times at which such dividends become payable or the amount payable on redemption of the Preferred Stock or the times at which redemption of the Preferred Stock is to occur, without the prior written consent of the holders of at least two-thirds of the Preferred Stock then outstanding (calculated on an As-Converted-Basis), (b) the Conversion Price of the Preferred Stock or the number of shares or class of stock into which the Preferred Stock is convertible, without the prior written consent of the holders of at least two-thirds of the Preferred Stock then outstanding (calculated on an As-Converted-Basis) or (c) the percentage required to approve any change described in clauses (a) and (b) above, without the prior written consent of the holders of at least two-thirds of the Preferred Stock then outstanding (calculated on an As-Converted-Basis); and provided further that no change in the terms hereof may be accomplished by merger or consolidation of the Corporation with another corporation or entity unless the Corporation has obtained the prior written consent of the holders of the applicable percentage of the Preferred Stock then outstanding (calculated on an As-Converted-Basis).

**Section 14. Notices.**

Except as otherwise expressly provided hereunder, all notices referred to herein shall be in writing and shall be delivered by registered or certified mail, return receipt requested and postage prepaid, or by reputable overnight courier service, charges prepaid, and shall be deemed to have been given when so mailed or sent (i) to the Corporation, at its principal executive offices and (ii) to any shareholder, at such holder's address as it appears in the stock records of the Corporation (unless otherwise indicated by any such holder).

**C. Series B Junior Preferred Stock**

Four Hundred (400) shares of the Preferred Stock, par value \$.01 per share, of the Corporation are designated as Series B Junior Preferred Stock ("Series B Preferred") which shares will have the rights and preferences as follows:

**Section 1. Voting Rights.** Except as required by law, the shares of Series B Preferred have no voting rights.

**Section 2. Dividend Rights.** The shares of Series B Preferred have no dividend rights.

**Section 3. Liquidation Preference.**

(a) **Distribution Upon Liquidation Event.** In the event of any liquidation, dissolution or winding up of the Corporation, either voluntary or involuntary (a "Series B Liquidation Event"), the holders of shares of Series B Preferred are entitled to receive, prior and in preference to any distribution of any of the assets of the Corporation to the holders of Common Stock of the Corporation, but subject to the rights of the Series A Preferred Stock and Series C Preferred Stock, a liquidation preference of \$1,000 per share.

(b) **Merger, Consolidation or Sale of Assets as Series B Liquidation Event.** A consolidation or merger of the Corporation (except where the Corporation is the surviving party, the terms of all series of Preferred Stock remain unchanged, the Series B Preferred is not exchanged for cash, securities or other property, and after giving effect to such transaction the holders of the Corporation's outstanding capital stock possessing a majority of the voting power (under normal circumstances) to elect a majority of the Corporation's Board of Directors immediately prior to such transaction shall continue to own capital stock possessing such voting power) or a sale of all or substantially all of the assets of the Corporation will be regarded as a Series B Liquidation Event, unless the holders of a majority of the shares of Series B Preferred elect not to treat any of the foregoing events as a Series B Liquidation Event by giving written notice thereof to the Corporation at least 15 days prior to the effective date of the event.

(c) **Insufficient Assets.** If upon the occurrence of a Series B Liquidation Event the assets to be distributed among the holders of the Series B Preferred are insufficient to permit the payment of the full preferential amount, then the entire assets of the Corporation legally available for distribution (subject to the rights of the Series A Preferred Stock and Series C Preferred Stock will be distributed ratably among the holders of the Series B Preferred.

**Section 4. Conversion.** The shares of Series B Preferred have no conversion rights.

**Section 5. Redemption.**

(a) **Optional Redemption.** Subject to the provisions hereof, the Corporation may redeem the Series B Preferred at any time or from time to time in any amounts that the Corporation may determine in its sole discretion. The redemption price will be \$1,000 per share (the "Series B Preferred Redemption Price").

(b) **Mandatory Redemption.** Subject to the provisions hereof, the Series B Preferred is subject to mandatory redemption on July 27, 2005, at the Series B Preferred Redemption Price.

(c) **Limitation on Redemption.** The ability and obligation of the Corporation to redeem the Series B Preferred is subject to the approval of any redemption by the Majority Preferred Holders (as defined in Article IV.B.12) and the Board.

(d) **Redemption Notice.** The Corporation will mail to each holder of record of Series B Preferred written notice of any redemption pursuant to Section 5(a) or 5(b) no less than ten nor more than sixty days prior to the date fixed for redemption (the "Redemption

"Date"). Each notice will state (i) the Redemption Date and (ii) the place or places where certificates for shares of Series B Preferred are to be surrendered.

(e) **Effect of Redemption.** From and after the Redemption Date, all rights of a holder with respect to shares of Series B Preferred redeemed on the Redemption Date will cease (except the right to receive the Series B Preferred Redemption Price), and the redeemed shares of Series B Preferred will not be deemed outstanding for any purpose whatsoever.

**Section 6. Preemptive Rights.** The shares of Series B Preferred will not have any preemptive rights.

**Section 7. No Restriction on Other Securities.** Nothing in the terms of the Series B Preferred will limit or prevent the Corporation from authorizing, designating or issuing any class or series of capital stock of the Corporation that has liquidation or other rights senior to, on parity with, or junior to the rights of the Series B Preferred.

**Section 8. Status of Converted or Redeemed Shares.** In the event any shares of Series B Preferred are redeemed pursuant to the terms of this Article, the shares will be retired and cancelled, and the Corporation (without need for further shareholder approval) may from time to time take such action as may be necessary or appropriate to reduce the number of authorized shares of Series B Preferred.

## **ARTICLE V**

### **Registered Office and Agent**

The address of the Registered Office of the corporation is 11554 Davis Creek Court, Jacksonville, Florida 32256, and the Registered Agent at such address is Lonnie Margol.

## **ARTICLE VI**

### **Indemnification**

The Corporation shall, to the fullest extent permitted by law, indemnify each director and officer of the Corporation and each person serving at the request of the Corporation as a director, officer or trustee of any corporation, partnership, trust, limited liability company, employee benefit plan or other entity against any liability (including but not limited to any obligation to pay a judgment, settlement, penalty, fine, or excise tax assessed with respect to an employee benefit plan), and any expense (including but not limited to counsel fees) if he or she acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Corporation, and with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The Corporation shall advance to such person any reasonable expense, where such liability or expense is incurred by such person in connection with any proceeding; provided that the foregoing will not require the Corporation to advance expenses in connection with any proceeding initiated by or on behalf of such person. "Proceeding" for purposes of this Article VI includes any threatened, pending or completed action, suit or proceeding of any nature, whether civil, criminal, administrative or investigative.

The rights of indemnification and the advancement of expenses shall inure to the benefit of the heirs, executors, administrators and personal representatives of such a person and will not be deemed exclusive of any other rights to indemnification against liabilities or the advancement of expenses to which a party may be entitled under any written agreement, board resolution, vote of shareholders or law. The Corporation shall take any affirmative action necessary to effect such indemnification or advancement of expenses under the requirements of applicable law, including, without limitation, the requirements of Sections 607.0850(2), 607.0850(4) and 607.0850(5), Florida Statutes. The Corporation may procure insurance on behalf of any person identified in this Article VI or any other person.

#### **ARTICLE VII**

##### **Restrictive Transfer Agreements**

If all, or any, of the shareholders of the Corporation shall enter into any agreement between themselves or with the Corporation or third persons, abridging, limiting, restricting or changing the rights or interest of any one or more of the shareholders to sell, assign, transfer, mortgage, pledge, hypothecate or transfer on the books of the Corporation, any or all of the stock of the Corporation held by them, and if a copy of the agreement is filed with the Corporation, all certificates of shares, subject to such agreement or restriction, shall have a reference endorsed thereon by an officer of the Corporation and such stock will not be transferred on the books of the Corporation except in accordance with the terms and provisions of the agreement. If the agreement so provides, the certificates of stock will be registered so that shares standing in the name of any person as pledgee, trustee or other fiduciary may be voted, in person or by proxy, and without proof of authority.

#### **ARTICLE VIII**

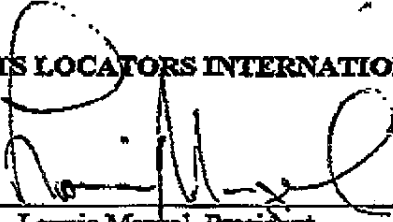
##### **Liability for Dividends**

A shareholder will not be liable for dividends illegally declared, distributions illegally made to shareholders or any other action taken in reliance in good faith upon financial statements of the Corporation represented to the shareholder to be correct by the President of the Corporation or the officer having charge of the books of account or certified by an independent or certified accountant to clearly reflect the financial condition of the Corporation; nor shall there be any liability if in good faith in determining the amount available for dividends or distribution, the shareholder considers the assets to be of ample value.

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IN WITNESS WHEREOF, PARTS LOCATORS INTERNATIONAL, INC.,  
has caused these Amended and Restated Articles of Incorporation to be signed by Lonnie  
Margol, its President, this 20th day of September, 2000.

PARTS LOCATORS INTERNATIONAL, INC.

By:   
Lonnie Margol, President

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