

07-26-1999



U.S. DEPARTMENT OF COMMERCE

101101115
RECORDATION FORM COVER SHEET
TRADEMARKS ONLY

Patent and Trademark Office
Docket No. 027287.2000

To the Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of Conveying party(ies): **7-22-99**
Telecom Solutions, Inc.
 Individual(s) Association
 General Partnership Limited Partnership
 Corporation-State Other
California
Additional name(s) of conveying party(ies) attached? Yes No

2. Name and address of receiving party(ies):
Name: iBASEt
Street Address: 20162 Windrow Drive
City: Lakeforest, CA 92630
 Individual(s) citizenship: _____
 Association: _____
 General Partnership: _____
 Limited Partnership: _____
 Corporation-State: California
 Other: _____
Additional name(s) & address(es) attached? Yes No

3. Nature of conveyance:
 Assignment Merger
 Security Agreement Change of Name
 Other:
Execution Date: March 25, 1999

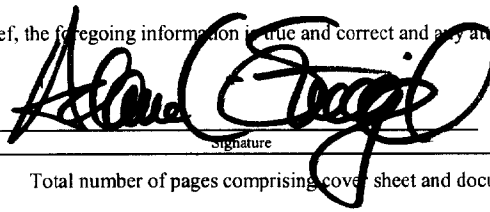
4. Application number(s) or registration number(s):
(If this document is being filed together with a new document, the execution date is:)
A. Trademark Application No.(s) 75/649,240, 75/613,302, 75/613,304 B. Registration No.(s) 2,127,078
Additional numbers attached? Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:
Adam C. Striegel
Brobeck, Phleger & Harrison LLP
Spear Street Tower
One Market
San Francisco, CA 94105

6. Total number of applications and trademark registrations involved: 4
7. Total fee (37 C.F.R. § 3.41): \$115.00
 Enclosed
 Authorized to be charged to deposit account, referencing Attorney Docket:
8. Deposit account number: **02-3950**

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. § 1.21 which may be required by this paper, or to credit any overpayment to **Deposit Account No. 02-3950**.

DO NOT USE THIS SPACE

9. Statement and Signature.
To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.
Name: Adam C. Striegel  July 16, 1999
Signature Date

Total number of pages comprising cover sheet and document: 16

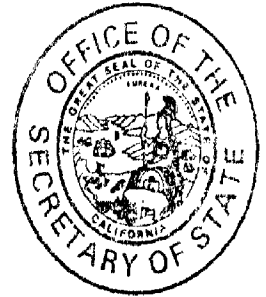
Mail documents to be recorded with required cover sheet information to:
Commissioner of Patents and Trademarks
Box Assignments
Washington, D.C. 20231

7/23/1999 MTHAI1 00000181 75649240

115E

1 FC:481 40.00 OP
2 FC:482 75.00 OP

State of California



SECRETARY OF STATE

Cy

I, *BILL JONES*, Secretary of State of the State of California, hereby certify:

That the attached transcript of 14 page(s) was prepared by and in this office from the record on file, of which it purports to be a copy, and that it is full, true and correct.

IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

JUL 01 1999



Bill Jones

Secretary of State

A0523964

1373472

RESTATED ARTICLES OF INCORPORATION

OF

TELECOM SOLUTIONS, INC.

FILED *NEP*
in the office of the Secretary of State
of the State of California

APR 02 1999
Bill Jones
BILL JONES, Secretary of State

Phillip H. Davis and Vikram S. Sial hereby certify as follows:

- I. They are the duly elected and acting President and Secretary, respectively, of TELECOM SOLUTIONS, INC., a California corporation (this "Corporation").
- II. The Articles of Incorporation of this Corporation are amended and restated to read as follows:

ARTICLE I

The name of this Corporation is iBASEt (hereafter referred to as the "Corporation"). This Corporation was previously known as Telecom Solutions, Inc.

ARTICLE II

The purpose of this Corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of California other than the banking business, the trust company business, or the practice of a profession permitted to be incorporated by the California Corporations Code.

ARTICLE III

(A) Limitation of Directors' Liability. The personal liability of the directors of this Corporation for monetary damages shall be eliminated to the fullest extent permissible under California law, as the same exists and to such greater extent as California law may hereafter permit.

(B) Indemnification of Corporate Agents. This Corporation is authorized to provide indemnification of agents (as defined in Section 317 of the California Corporations Code) for breach of duty to this Corporation and its stockholders through bylaw provisions, agreements with the agents, votes of shareholders or disinterested

directors, or otherwise, in excess of the indemnification otherwise permitted by Section 317 of the California Corporations Code, subject to the limits on such excess indemnification set forth in Section 204 of the California Corporations Code.

ARTICLE IV

(A) Classes of Stock. This Corporation is authorized to issue two classes of shares, designated respectively "Common Stock" and "Preferred Stock." The total number of shares that this Corporation is authorized to issue is twenty three million (23,000,000) shares. Twenty million (20,000,000) shares shall be Common Stock, and three million (3,000,000) shares shall be Preferred Stock. A total of seven hundred fifty thousand (750,000) shares of Series A Preferred Stock have been issued.

(B) Rights, Preferences and Restrictions of Preferred Stock. The rights, preferences, restrictions and other matters relating to the Series A Preferred Stock are as follows.

1. Dividends. The holders of shares of Series A Preferred Stock shall be entitled to receive dividends, out of any assets legally available therefor, prior and in preference to any declaration or payment of any dividend (payable other than in Common Stock or other securities or rights convertible into or entitling the holder thereof to receive, directly or indirectly, additional shares of Common Stock of this Corporation) on the Common Stock of this Corporation, at the rate of \$1 per share per annum until May 31, 2001, and thereafter at the per-annum rate determined by multiplying \$4 by the sum of 1% plus the Wells Fargo Bank prime or reference rate (as adjusted from time to time), or, if greater (as determined on a per annum and as converted basis for the Series A Preferred Stock) an amount equal to that paid on the Common Stock of this Corporation. Such dividends shall be payable when, as, and if declared by the Board of Directors, and shall be cumulative so that, if such dividends in respect of any previous or current annual dividend period, at the rate specified above, shall not have been paid or declared and a sum sufficient for the payment thereof set apart, the deficiency shall first be fully paid before any dividend or other distribution shall be paid on or declared and set apart for the Common Stock. Dividends that have not been paid or declared shall not bear interest, be compounded, or be increased by any amount equivalent to interest. Cumulative dividends with respect to a share of Series A Preferred Stock which are accrued, payable or in arrears shall, upon conversion of such share to Common Stock and unless declared, be paid to the extent assets are legally available therefor and any amounts for which assets are not legally available shall be paid promptly as assets become legally available therefor; any partial payment will be made pro rata among the holders of such shares. Notwithstanding the foregoing, and for all purposes with respect to the Series A Preferred Stock, (a) dividends as provided in this Section 1 shall be annually declared and accrued, but shall not be payable until May 31, 2002; (b) on and after June 1, 2002, such dividends shall be declared, or the amount accrued, and will, in the event that this Corporation (i) engages in a leveraged buyout or (ii) is acquired in a leveraged buyout, for a total consideration in cash and other assets of at least \$60,000,000, after June 1, 2002, or

(ii) effects an initial registered public offering pursuant to the Securities Act of 1933 (an "IPO") with a total valuation of this Corporation (based on the per-share offering price in the IPO and all other relevant factors) of at least \$65,000,000 before June 1, 2002, then and in such event any dividends declared or accrued on or before the consummation for the Corporate Transaction or the IPO shall automatically be waived entirely and not paid.

2. Liquidation Preference.

a. In the event of any liquidation, dissolution or winding up of this Corporation, either voluntary or involuntary, the holders of Series A Preferred Stock shall be entitled to receive, prior and in preference to any distribution of any of the assets of this Corporation to the holders of Common Stock by reason of their ownership thereof, an amount per share equal to the sum of (i) \$4 for each outstanding share of Series A Preferred Stock (the "Original Series A Issue Price") and (ii) an amount equal to accrued but unpaid dividends on such share (except as otherwise provided in Section 1). If upon the occurrence of such event, the assets and funds thus distributed among the holders of the Series A Preferred Stock shall be insufficient to permit the payment to such holders of the full aforesaid preferential amounts, then, subject to the rights of series of Preferred Stock which may from time to time come into existence, the entire assets and funds of this Corporation legally available for distribution shall be distributed ratably among the holders of the Series A Preferred Stock in proportion to the amount of stock owned by each such holder.

b. Except as otherwise provided in Section 1: (i) any acquisition of this Corporation by means of merger or other form of corporate reorganization in which outstanding shares of this Corporation are exchanged for securities or other consideration issued, or caused to be issued, by the acquiring corporation or its subsidiary (other than a mere reincorporation transaction), (ii) a sale or other disposition of all or substantially all of the assets of this Corporation, or (iii) the effectuation by the Corporation of a transaction or series of related transactions in which more than 37% of the voting power of the Corporation changes (collectively, a "Corporate Transaction"), shall be treated as follows:

i) In the event of a Corporate Transaction, the holders of Series A Preferred Stock shall be entitled to receive, prior and in preference to any distribution of any of the assets of this Corporation to the holders of Common Stock by reason of their ownership thereof, an amount per share equal to the sum of (i) the Original Series A Issue Price and (ii) an amount equal to accrued but unpaid dividends on such shares (except as otherwise provided in Section 1). If upon the occurrence of such event, the assets and funds thus distributed among the holders of the Series A Preferred Stock shall be insufficient to permit the payment to such holders of the full aforesaid preferential amounts, then, subject to the rights of series of Preferred Stock which may from time to time come into existence, the entire assets and funds of this Corporation

legally available for distribution shall be distributed ratably among the holders of the Series A Preferred Stock in proportion to the amount of such stock owned by each such holder.

ii) Notwithstanding subsection 2(b)(i) above, if the total consideration with respect to a Corporate Transaction is at least \$60,000,000, or the total capitalization of this Corporation in an IPO (based on the per-share offering price in the IPO and all other relevant factors) is at least \$65,000,000, then and in such event the holders of Series A Preferred Stock shall not be entitled to the distribution in subsection 2(b)(i) above, and immediately prior to such Corporate Transaction their shares of Series A Preferred Stock will automatically be converted to Common Stock.

3. Redemption

a. At the option of this Corporation, this Corporation may, to the extent it may lawfully do so, redeem all, but not less than all, shares of the Series A Preferred Stock by paying in cash therefor (i) on or before May 31, 2001, \$8 per share, and (ii) thereafter for a sum equal to the Original Series A Issue Price plus all accrued and unpaid dividends (such total amount is hereinafter referred to as the "Series A Redemption Price") for the shares to be redeemed.

b. At least 20 but no more than 90 days prior to the proposed redemption date for the Series A Preferred Stock (the "Redemption Date"), written notice shall be mailed, first class postage prepaid, to each holder of record (at the close of business on the business day next preceding the day on which notice is given) of the Series A Preferred Stock at the address last shown on the records of this Corporation for such holder or given by the holder to this Corporation for the purpose of notice or if no such address appears or is given by the holder to this Corporation for the purpose of notice or if no such address appears or is given at the place where the principal executive office of this Corporation is located, notifying such holder of the redemption to be effected, specifying the number of shares to be redeemed from such holder, the Redemption Date, the Series A Redemption Price, the place at which payment may be obtained and the date on which such holder's Conversion Rights (as hereinafter defined) as to such shares terminate and calling upon such holder to surrender to this Corporation, in the manner and at the place designated, his certificate or certificates representing the shares to be redeemed (the "Redemption Notice"). Except as provided in subsection 3(d) and except as prohibited by applicable California corporate law, on or after the Redemption Date, each holder of Series A Preferred Stock to be redeemed shall surrender to this Corporation the certificate or certificates representing such shares, in the manner and at the place designated in the Redemption Notice, and thereupon the Series A Redemption Price of such shares shall be payable to the order of the person whose name appears on such certificates as the owner thereof and each such surrendered certificate shall be canceled.

c. From and after the Redemption Date, unless and until there shall have been a default in payment of the Series A Redemption Price, all of this of

the holders of such shares as holders of Series A Preferred Stock (except the right to receive the Series A Redemption Price, without interest upon surrender of their certificate or certificates) shall cease with respect to such shares, and such shares shall not thereafter be transferred on the books of this Corporation or be deemed to be outstanding for any purpose whatsoever. If the funds of the Corporation legally available for redemption of shares of Series A Preferred Stock on any Redemption Date are insufficient to redeem the total number of shares of Series A Preferred Stock (i) the redemption shall be null and void and of no effect, unless (ii) holders of a majority of the shares of Series A Preferred Stock consent in writing, and then the redemption shall take effect and those funds which are legally available will be used to redeem the maximum possible number of such shares ratably among the holders of such shares. In the latter case, the shares of Series A Preferred Stock not redeemed shall remain outstanding and entitled to all the rights and preferences provided herein, and any time thereafter when additional funds of the Corporation are legally available for the redemption of shares of Series A Preferred Stock, such funds will 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.

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

a. Right to Convert.

i) Subject to subsections 4(b) and 4(c), each share of Series A Preferred Stock shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share and prior to the close of business on any Redemption Date as may have been fixed in any Redemption Notice with respect to such share, at the office of this Corporation or any transfer agent for the Series A Preferred Stock, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing the Original Series A Issue Price by the Conversion Price at the time in effect. The initial Conversion Price per share for shares of Series A Preferred Stock shall be the Original Series A Issue Price, provided, however, that the Conversion Price for the Series A Preferred Stock shall be subject to adjustment as set forth in subsection 4(d).

ii) In the event of a call for redemption of any shares of Series A Preferred Stock pursuant to Section 3 hereof, the Conversion Rights shall terminate as to the shares designated for redemption at the close of business on the Redemption Date, unless a default occurs in payment of the Redemption Price.

b. Automatic Conversion. Each share of Series A Preferred Stock shall automatically be converted into shares of Common Stock at the Conversion Price at the time in effect for such Series A Preferred Stock immediately upon the earlier of (i) the consummation of an IPO, or the total liquidation of this Corporation (based on

the per-share offering price in the IPO and all other relevant factors) of at least \$65,000,000; (ii) the consummation of a Corporate Transaction in which the total consideration is at least \$60,000,000; or (iii) the date upon which this Corporation obtains the consent of the holders of a majority of the then outstanding shares of Series A Preferred Stock.

c. Mechanics of Conversion. Before any holder of Series A Preferred Stock shall be entitled to, or be required to, convert the same into shares of Common Stock, he shall surrender the certificate or certificates therefor, duly endorsed, at the office of this Corporation or of any transfer agent for the Series A Preferred Stock, and shall give written notice by mail, postage prepaid, to this Corporation at its principal corporate office, of the election to convert the same and shall state therein the name or names in which the certificate or certificates for shares of Common Stock are to be issued. This Corporation shall, as soon as practicable thereafter, issue and deliver at such office to such holder of Series A Preferred Stock, or to the nominee or nominees of such holder, a certificate or certificates for the number of shares of Common Stock to which such holder shall be entitled as aforesaid. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of Series A Preferred Stock to be converted, and the person or persons entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock as of such date. If the conversion is in connection with an underwritten offering of securities pursuant to the Securities Act of 1933, the conversion may, at the option of any holder tendering Series A Preferred Stock for conversion, be conditioned upon the closing with the underwriter of the sale of securities pursuant to such offering, in which event the persons entitled to receive the Common Stock issuable upon such conversion of the Series A Preferred Stock shall not be deemed to have converted such Series A Preferred Stock until immediately prior to the closing of such sale of securities.

d. Conversion Price Adjustments of Preferred Stock. The Conversion Price of the Series A Preferred Stock shall be subject to adjustment from time to time as follows:

i) A. If the Corporation shall issue any Additional Stock (as defined below) after the date upon which any shares of the Series A Preferred Stock were first issued (the "Purchase Date" with respect to such series) without consideration or for a consideration per share less than the Conversion Price for the Series A Preferred Stock in effect immediately prior to the issuance shall forthwith (except as otherwise provided in this subsection 4(d)(i)) be adjusted to a price equal to the per share purchase price for such Additional Stock.

B. No adjustment of the Conversion Price for the Series A Preferred Stock shall be made in an amount less than \$0.01 per share provided that any adjustments which are not required to be made by reason of this

sentence shall be carried forward and shall be either taken into account in any subsequent adjustment made prior to three years from the date of the event giving rise to the adjustment being carried forward, or shall be made at the end of three years from the date of the event giving rise to the adjustment being carried forward. Except to the limited extent provided for in subsection (E)(3) and (E)(4), no adjustment of such Conversion Price pursuant to this subsection 4(c)(i) shall have the effect of increasing the Conversion Price in effect immediately prior to such adjustment.

C. In the case of the issuance of Common Stock for cash, the consideration shall be deemed to be the amount of cash paid therefor before deducting any reasonable discounts, commissions or other expenses allowed, paid or incurred by this Corporation for any underwriting or otherwise in connection with the issuance and sale thereof.

D. In the case of the issuance of the Common Stock for a consideration in whole or in part other than cash, the consideration other than cash shall be deemed to be the fair value thereof as determined by an independent, nationally recognized investment banker or company evaluation expert mutually agreeable to this Corporation and the holders of a majority of Series A Preferred Stock, irrespective of any accounting treatment therefor.

E. In the case of the issuance (whether before, on or after the applicable Purchase Date) of options to purchase or rights to subscribe for Common Stock, securities by their terms convertible into or exchangeable for Common Stock or options to purchase or rights to subscribe for such convertible or exchangeable securities (other than such options granted heretofore or other such options to purchase or subscribe for Common Stock for a purchase price equal to or in excess of the Conversion Price then in effect), the following provisions shall apply for all purposes of this subsection 4(d)(i) and subsection 4(d)(ii).

1. The aggregate maximum number of shares of Common Stock deliverable upon exercise (to the extent then exercisable) of such options to purchase or rights to subscribe for Common Stock shall be deemed to have been issued at the time such options or rights were issued and for a consideration equal to the consideration (determined in the manner provided in subsections 4(d)(i)(C) and (d)(i)(D)), if any, received by this Corporation upon the issuance of such options or rights plus the exercise price provided in such options or rights (without taking into account potential antidilution adjustments) for the Common Stock covered thereby.

2. The aggregate maximum number of shares of Common Stock deliverable upon conversion of or in exchange (to the extent then convertible or exchangeable) for any such convertible or exchangeable securities or upon the exercise of options to purchase or rights to subscribe for such convertible or exchangeable securities and subsequent conversion or exchange thereof shall be deemed

to have been issued at the time such securities were issued or such options or rights were issued and for the consideration equal to the consideration, if any, received by this Corporation for any such securities and related options or rights (excluding any cash received on account of accrued interest or accrued dividends), plus the additional consideration, if any, to be received by this Corporation (without taking into account potential antidilution adjustments) upon the conversion or exchange of such securities or the exercise of any related options or rights (the consideration in each case to be determined in the manner provided in subsections 4(d)(i)(C) and 4(d)(i)(D)).

3. In the event of any change in the number of shares of Common Stock deliverable or in the consideration payable to this Corporation upon exercise of such options or rights or upon conversion of or in exchange for such convertible or exchangeable securities, including, but not limited to, a change resulting from the antidilution provisions thereof, the Conversion Price of the Series A Preferred Stock, to the extent in any way affected by or computed using such options, rights or securities, shall be recomputed to reflect such change, but no further adjustment shall be made for the actual issuance of Common Stock or any payment of such consideration upon the exercise of any such options or rights or the conversion or exchange of such securities.

4. Upon the expiration of any such options or rights, the termination of any such rights to convert or exchange or the expiration of any options or rights related to such convertible or exchangeable securities, the Conversion Price of the Series A Preferred Stock, to the extent in any way affected by or computed using such options, rights or securities or options or rights related to such securities, shall be recomputed to reflect the issuance of only the number of shares of Common Stock (and convertible or exchangeable securities which remain in effect) actually issued upon the exercise of such options or rights, upon the conversion or exchange of such securities or upon the exercise of the options or rights related to such securities.

5. The number of shares of Common Stock deemed issued and the consideration deemed paid therefor pursuant to subsections 4(d)(i)(E)(1) and (2) shall be appropriately adjusted to reflect any change, termination or expiration of the type described in either subsections 4(d)(i)(E)(3) or (4).

ii) "Additional Stock" shall mean any shares of Common Stock issued (or deemed to have been issued pursuant to subsection 4(d)(i)(E)) by this Corporation after the Purchase Date other than

A. Common Stock issued pursuant to a transaction described in subsection 4(d)(iii) hereof, or

B. shares of Common Stock issuable or issued to employees of this Corporation directly or pursuant to a stock option plan or

restricted stock plan approved by the Board of Directors of this Corporation at any time when the total number of shares of Common Stock so issuable or issued (and not repurchased at cost by the Corporation in connection with the termination of employment) does not exceed 1,250,000.

iii) In the event the Corporation should at any time or from time to time after the Purchase Date fix a record date for the effectuation of a split or subdivision of the outstanding shares of Common Stock or the determination of holders of Common Stock entitled to receive a dividend or other distribution payable in additional shares of Common Stock or other securities or rights convertible into, or entitling the holder thereof to receive directly or indirectly, additional shares of Common Stock (hereinafter referred to as "Common Stock Equivalents") without payment of any consideration by such holder for the additional shares of Common Stock issuable upon conversion or exercise thereof), then, as of such record date (or the date of such dividend distribution, split or subdivision if no record date is fixed), the Conversion Price of the Series A Preferred Stock shall be appropriately decreased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be increased in proportion to such increase of the aggregate of shares of Common Stock outstanding and those issuable with respect to such Common Stock Equivalents.

iv) If the number of shares of Common Stock outstanding at any time after the Purchase Date is decreased by a combination of the outstanding shares of Common Stock, then, following the record date of such combination, the Conversion Price for the Series A Preferred Stock shall be appropriately increased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be decreased in proportion to such decrease in outstanding shares.

e. Other Distributions. In the event this Corporation shall declare a distribution payable in securities of other persons, assets (excluding cash dividends) or options or rights not referred to in subsection 4(d)(iii), then, in each such case for the purpose of this subsection 4(e), the holders of the Series A Preferred Stock shall be entitled to a proportionate share of any such distributions as though they were the holders of the number of shares of Common Stock of the Corporation to which their shares of Series A Preferred Stock are convertible as of the record date fixed for the determination of the holders of Common Stock of the Corporation entitled to receive such distribution.

f. Recapitalization. If at any time or from time to time there shall be a recapitalization of the Common Stock (other than a subdivision, combination or merger or sale of assets transaction provided for elsewhere in this Section 4 or in Section 2 b.), provision shall be made so that the holders of the Series A Preferred Stock shall thereafter be entitled to receive upon conversion of the Series A Preferred Stock the number of shares of stock or other securities or property of the Company, or other use, to which a holder of Common Stock deliverable upon conversion would have been entitled on such recapitalization. In any such case, an appropriate adjustment shall be made in the

application of the provisions of this Section 4 with respect to the rights of the holders of the Series A Preferred Stock after the recapitalization to the end that the provisions of this Section 4 (including adjustment of the Conversion Price then in effect and the number of shares purchasable upon conversion of the Series A Preferred Stock) shall be applicable after that event as nearly equivalent as may be practicable.

g. No Impairment. This Corporation shall not, by amendment of its Articles of Incorporation or through any reorganization, recapitalization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by this Corporation, but shall at all times in good faith assist in the carrying out of all the provisions of this Section 4 and in the taking of all such actions as may be necessary or appropriate in order to protect the Conversion Rights of the holders of the Series A Preferred Stock against impairment.

h. No Fractional Shares and Certificate as to Adjustments.

i. No fractional shares shall be issued upon conversion of the Series A Preferred Stock, and the number of shares of Common Stock to be issued shall be rounded to the nearest whole share. Whether or not fractional shares are issuable upon such conversion shall be determined on the basis of the total number of shares of Series A Preferred Stock the holder is at the time converting into Common Stock and the number of shares of Common Stock issuable upon such aggregate conversion.

ii. Upon the occurrence of each adjustment or readjustment of the Conversion Price of Series A Preferred Stock pursuant to this Section 4, this Corporation, at its expense, shall promptly compute such adjustment or readjustment in accordance with the terms hereof and prepare and furnish to each holder of Series A Preferred Stock a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. This Corporation shall, upon the written request at any time of any holder of Series A Preferred Stock, furnish or cause to be furnished to such holder a like certificate setting forth (A) such adjustment and readjustment, (B) the Conversion Price at the time in effect, and (C) the number of shares of Common Stock and the amount, if any, of the property which at the time would be received upon the conversion of a share of Series A Preferred Stock.

i. Notices of Record Date. In the event of any taking by this Corporation of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividends (other than a cash dividend) or other distributions, or a right to subscribe for, purchase or otherwise acquire any shares of stock of any class or any other securities or property, or to receive any gift or debt, this Corporation shall mail to each holder of Series A Preferred Stock at least 30 days prior to the date of such taking, notice, specifying the date on which the same

record is to be taken for the purpose of such dividend, distribution or right, and the amount and character of such dividend, distribution or right, and the amount and character of such dividend, distribution or right.

j. Reservation of Stock Issuable Upon Conversion. This Corporation shall at all time reserve and keep available out of its authorized but unissued shares of Common Stock solely for the purpose of effecting the conversion of the shares of the Series A Preferred Stock such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of the Series A Preferred Stock. If at any time the number of authorized but unissued shares of the Series A Preferred Stock, this Corporation will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes.

k. Notices. Any notice required by the provisions of this Section 4 to be given to the holders of shares of Series A Preferred Stock shall be deemed given if deposited in the United States mail, postage prepaid, and addressed to each holder of record at his address appearing on the books of this Corporation.

5. Voting Rights and the Election of Directors. The holder of each share of Series A Preferred Stock shall have no voting rights at any time.

6. Protective Provisions.

a. So long as shares of Series A Preferred Stock are outstanding, this Corporation shall not without first obtaining the approval (by vote or written consent, as provided by law) of the holders of at least a majority of the then outstanding shares of Series A Preferred Stock:

i) sell, convey, or otherwise dispose of all or substantially all of its property or business or merge into or consolidate with any other corporation (other than a wholly owned subsidiary corporation) or effect any transaction or series of related transactions in which more than 67% of the voting power of this Corporation changes;

ii) alter or change the rights, preferences or privileges of the shares of Series A Preferred Stock so as to affect adversely the shares, or take any other action that is detrimental to the interests of the holders of Series A Preferred Stock (except as specifically contemplated or permitted herein); or

iii) increase the authorized number of shares of Series A Preferred Stock, or issue or sell any shares of Common Stock not outstanding on the date hereof, other than pursuant to the exercise of stock options granted prior to the

date hereof or issued pursuant to a stock option plan adopted or to be adopted and pursuant to which not more than 1,250,000 shares of Common Stock are subject; or

iv) Create any new class or series of stock or any other securities convertible into equity securities of the Corporation having a preference over, or being on a parity with, the Series A Preferred Stock with respect to voting, dividends or upon liquidation; or

v) elect to wind up and dissolve, or otherwise liquidate all of the assets of this Corporation.

b. Notwithstanding subsection 6(a), the protective provisions in subsection 6(a) shall not apply from and after the earliest of: (i) the date that all shares of the Series A Preferred Stock have been redeemed or converted pursuant to Section 3 or Section 4 hereof; (ii) the date that \$4 per share in dividends have been paid to the holders of the Series A Preferred Stock; or (iii) the consummation of a Corporate Transaction or an IPO. In addition, notwithstanding subsection 6(a), the protective provisions in subsection 6(a) shall not apply to a Corporate Transaction or an IPO in which the holders of Series A Preferred Stock receive or will receive at least \$8 per share in cash or securities (traded on the New York or American Stock Exchanges or Nasdaq, subject to restrictions such as Rule 144 promulgated under the Securities Act of 1933, and other reasonable underwriter conditions); provided, however, that in such Corporate Transaction or IPO the holders of the Series A Preferred Stock shall be treated on a *pari passu* basis with the holders of the Common Stock of this Corporation.

7. Status of Converted or Redeemed Stock. In the event any shares of Series A Preferred Stock shall be redeemed or converted pursuant to Section 3 or Section 4 hereof, the shares so converted or redeemed shall be canceled and shall not be issuable by the Corporation. The Articles of Incorporation of this Corporation shall be appropriately amended to effect the corresponding reduction in the Corporation's authorized capital stock.

8. SBA Requirements. Notwithstanding any contrary provisions herein, the shares of Series A Preferred Stock are subject to adjustments necessary, as reasonably determined by this Corporation, to maintain this Corporation's qualification as a Program Participant based upon the written regulations and requirements of the U.S. Small Business Administration (the "SBA") under its so-called Section 8(a) Program.

(C) Common Stock.

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

as may be declared from time to time by the Board of Directors; provided however, until (i) all shares of the Series A Preferred Stock of the Corporation shall be either redeemed or converted to Common Stock, or (ii) have been paid dividends in the aggregate of \$4 per share, no cash dividends shall be declared or paid to holders of Common Stock.

2. Liquidation Rights. Upon the liquidation, dissolution or winding up of this Corporation, the assets of the Corporation shall be distributed as provided in Section 2 of Division (B) to the holders of Series A Preferred Stock, and any remaining assets of this Corporation shall be distributed pro rata among the holders of Common Stock based on the number of shares of Common Stock held by each.

3. Redemption. Holders of Common Stock have no redemption rights.

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

.....

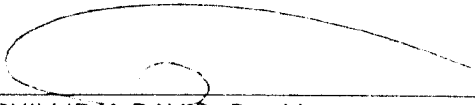
III. The foregoing amendment and restatement of the Articles of Incorporation has been duly approved by the Board of Directors of this Corporation.

IV. The foregoing amendment and restatement of the Articles of Incorporation has been duly approved by the required vote of shareholders in accordance with Sections 902 and 903 of the California Corporations Code. This Corporation has two classes of shares outstanding, each of which is entitled to vote with respect to the foregoing amendments. The number of outstanding shares of each class is 6,506,000 shares of Common Stock and 750,000 shares of Series A Preferred Stock. The number of shares voting in favor of the foregoing amendment and restatement of the


Articles of Incorporation exceeded the vote required. The percentage vote required was more than 50% of each class.

We further declare under penalty of perjury under the laws of the State of California that the matters set forth in this Certificate are true and correct of our own knowledge.

Dated: March 25, 1999



PHILLIP H. DAVIS, President



VIKRAM S. SIAL, Secretary

TS/AR/HB/DYC

