



To the Honorable Commissioner of Patents and Trademarks
thereof.

102005513

he attached original documents or copy

1. Name of conveying party(ies):

iPass Alliance, Inc.

- Individual(s) Association
- General Partnership Limited Partnership
- Corporation-State - California
- Other _____

Additional name(s) of conveying party(ies) attached? Yes
 No MRD 2/15/02

3. Nature of conveyance:

- Assignment Merger
- Security Agreement Change of Name
- Other _____

Execution Date: July 28, 1997

2. Name and address of receiving party(ies):

Name: iPass, Inc.

Internal Address: _____

Street Address: 3800 Bridge Parkway

City: Redwood Shores State: California ZIP 94065

- Individual(s) citizenship _____
- Association _____
- General Partnership _____
- Limited Partnership _____
- Corporation-State California
- Other _____

If assignee is not domiciled in the United States, a domestic representative designation is attached:
 Yes No

(Designation must be a separate document from Assignment).
Additional name(s) & address(es) attached? Yes No

4. Application number(s) or registration number(s):

A. Trademark Application No.(s)

75120811

Additional numbers attached? Yes X No

B. Trademark Registration No.(s)

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Cooley Godward LLP

Internal Address: Five Palo Alto Square

Street Address: 3000 El Camino Real

City: Palo Alto State: CA ZIP 94306-2155

6. Total number of applications and registration involved: 1

7. Total fee (37 CFR 3.41):.....
\$ 40.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number: No. 03-3118

(Attach duplicate copy of this page if paying by deposit account)

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.

Susan Berner Key 1/17/02
Susan D. Berner Key Date

Total number of pages including cover sheet, attachments, and document: 3

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

03/06/2002 TDIAZ1 00000045 75120811

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40.00 DP

I-PASS ALLIANCE

Cross References: I PASS ALLIANCE**TRADEMARKSCAN®--U.S. Federal****Serial Number:** 75120811**Status:** PUBLISHED
SECTION 44(d)
INTENT TO USE**USPTO Status:** (732) THIRD EXTENSION - GRANTED
USPTO Status Date: October 2, 2001**Filed:** June 18, 1996
Allowance Filed: March 21, 2000
Published: December 28, 1999
Extension Approved: October 2, 2001**Goods/Services:** AUTHENTICATION SERVICES, NAMELY, PROVIDING AUTHENTICATION OF USERS
SEEKING ACCESS TO GLOBAL COMPUTER NETWORKS**International Class(es)**
42 (Miscellaneous Service Marks)**Pseudo International Class(es)**
36 (Insurance and Financial Services)**Post Publication Owner:**
IPASS, INC.
CANADA CORPORATION
C/O FASKEN CAMPBELL GODFREY
P.O. BOX 20, SUITE 4200 TORONTO-DOMINION CENTRE
TORONTO, ONTARIO M5K 1N6 , CANADA**Owner At Publication:**
IPASS ALLIANCE INC.
CANADA CORPORATION
C/O FASKEN CAMPBELL GODFREY
P.O. BOX 20, SUITE 4200TORONTO-DOMINION BANK TOWER TORONTO-DOMINION CENTRE
TORONTO, ONTARIO M5K 1N6 , CANADA**Applicant:**
IPASS ALLIANCE INC.
CANADA CORPORATION
C/O FASKEN CAMPBELL GODFREY
P.O. BOX 20, SUITE 4200TORONTO-DOMINION BANK TOWER TORONTO-DOMINION CENTRE
TORONTO, ONTARIO M5K 1N6 , CANADA**Assignment Information****Assignee:**
SEA CHANGE INVESTMENTS INC.
CANADA CORPORATION
P.O. BOX 20, SUITE 4200 TORONTO DOMINION BANK TOWER, TORONTO DOMINION CENTRE

TORONTO, CANADA M5K 1N6

Assignor:

IPASS ALLIANCE INC.
CANADA CORPORATION

Correspondent:

COOLEY GODWARD LLP
ATTN: ANNE H. PECK, ESQ.
FIVE PALO ALTO SQUARE
3000 EL CAMINO REAL

Brief: CHANGE OF NAME

Signed: September 6, 1996

Recorded: July 11, 1997

Reel/Frame: 1606/0536

Assignee:

I-PASS ALLIANCE INC.
CALIFORNIA CORPORATION
650 CASTRO STREET, SUITE 280
MOUNTAIN VIEW, CALIFORNIA 94041

Assignor:

SEA CHANGE INVESTMENTS INC.
CANADA CORPORATION

Correspondent:

COOLEY GODWARD LLP
ATTN: ANNE H. PECK, ESQ.
FIVE PALO ALTO SQUARE
3000 EL CAMINO REAL

Brief: ASSIGNMENT OF A PART OF ASSIGNOR INTEREST

Signed: October 18, 1996

Recorded: July 11, 1997

Reel/Frame: 1607/0128

Foreign Application Claimed: 810806

Foreign Application Date: April 24, 1996

Foreign Application Country: CANADA

Foreign Registration Claimed: TMA510,925

Foreign Registration Date: April 15, 1999

Foreign Registration Expires: April 15, 2014

Foreign Registration Country: CANADA

Filing Attorney: ANNE H PECK

Filing Correspondent:

ANNE H PECK
COOLEY GODWARD LLP
5 PALO ALTO SQ
3000 EL CAMINO REAL
PALO ALTO CA 94306

Domestic Representative: ANNE H. PECK

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State of California



SECRETARY OF STATE

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

That the attached transcript of _____ 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

SEP 04 2001



Bill Jones

Secretary of State

A495677

1974011

AMENDED AND RESTATED ARTICLES OF INCORPORATION OF
I-PASS ALLIANCE INC.

FILED *Bjm*
In the office of the Secretary of State
of the State of California

JUL 30 1997

Bill Jones
BILL JONES, Secretary of State

CHRISTOPHER MOORE and MICHAEL STERN hereby certify that:

ONE: They are the duly elected and acting President and Secretary, respectively, of **I-Pass Alliance Inc.**, a California corporation (the "Company").

TWO: The Articles of Incorporation of this Company are hereby amended and restated to read as follows:

I.

The name of the Company is **iPass Inc.**

II.

The purpose of the Company 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.

III.

A. This Company is authorized to issue two classes of stock to be designated, respectively, "Common Stock" and "Preferred Stock." The total number of shares which the Company is authorized to issue is Twenty Million (20,000,000) shares, Ten Million (10,000,000) shares of which shall be Common Stock (the "Common Stock") and Ten Million (10,000,000) shares of which shall be Preferred Stock (the "Preferred Stock").

B. The Preferred Stock may be issued from time to time in one or more series. The Board of Directors is hereby authorized, within the limitations and restrictions stated in these Restated Articles, to fix or alter the dividend rights, dividend rate, conversion rights, voting rights, rights and terms of redemption (including sinking fund provisions), the redemption price or prices, the liquidation preferences of any wholly unissued series of Preferred Stock, and the number of shares constituting any such series and the designation thereof, or any of them; and to increase or decrease the number of shares of any series subsequent to the issue of shares of that series, but not below the number of shares of such series then outstanding. In case the number of shares of any series shall be so decreased, the shares constituting such decrease shall resume the status which they had prior to the adoption of the resolution originally fixing the number of shares of such series.

C. Five Hundred Twenty-Nine Thousand, Seven Hundred Thirty-Six (529,736) of the authorized shares of Preferred Stock are hereby designated "Series A Preferred Stock" (the "Series A Preferred"). Two Million Five Hundred Eight Thousand Seven Hundred Ninety-Nine (2,508,799) shares of the authorized shares of Preferred Stock are hereby designated "Series B

Preferred Stock" (the "Series B Preferred"). Two Million (2,000,000) shares of the authorized shares of Preferred Stock are hereby designated "Series C Preferred Stock" (the "Series C Preferred"). The Series A Preferred, Series B Preferred and Series C Preferred are collectively referred to as the "Preferred Stock."

D. The respective rights, preferences, privileges, restrictions and other matters relating to the Series A Preferred, Series B Preferred and Series C Preferred are as follows:

1. Dividend Rights.

a. Holders of the Preferred Stock, in preference to the holders of any other stock of the Company ("Junior Stock"), shall be entitled to receive, when and as declared by the Board of Directors, but only out of funds that are legally available therefor, cash dividends at the rate of eight percent (8%) of the "Original Issue Price" per annum on each outstanding share of the Preferred Stock (as adjusted for any stock dividends, combinations, splits recapitalization and the like with respect to such shares). The Original Issue Price of the Series A Preferred, Series B Preferred and Series C Preferred shall be \$1.00, \$0.897 and \$1.864, respectively. Such dividends shall be payable only when, as and if declared by the Board of Directors and shall be non-cumulative. Any dividends paid by the Company at less than a full dividend, as provided herein, shall be made ratably among the Series A Preferred, Series B Preferred and Series C Preferred based on the ratio of the dividend to the applicable original Issue Price for the Series A Preferred, Series B Preferred and Series C Preferred.

b. So long as any shares of Preferred Stock shall be outstanding, no dividend, whether in cash or property, shall be paid or declared, nor shall any other distribution be made, on any Junior Stock, nor shall any shares of any Junior Stock of the Company be purchased, redeemed, or otherwise acquired for value by the Company (except for acquisitions of Common Stock by the Company pursuant to agreements which permit the Company to repurchase such shares upon termination of services to the Company or in exercise of the Company's right of first refusal upon a proposed transfer) until all dividends (set forth in Section 1(a) above) on the Preferred Stock shall have been paid or declared and set apart. In the event dividends are paid on any share of Common Stock, an additional dividend shall be paid with respect to all outstanding shares of Preferred Stock in an amount equal per share (on an as-if-converted to Common Stock basis) to the amount paid or set aside for each share of Common Stock. The provisions of this Section 1(b) shall not, however, apply to (i) a dividend payable in Common Stock, (ii) the acquisition of shares of any Junior Stock in exchange for shares of any other Junior Stock, or (iii) any repurchase of any outstanding securities of the Company that is unanimously approved by the Company's Board of Directors and approved by the holders of the Preferred Stock pursuant to Section 2(b)(iii) below. The holders of the Preferred Stock expressly waive their rights, if any, as described in California Corporations Code Sections 502, 503 and 506 as they relate to repurchase of shares upon termination of employment.

2. Voting Rights.

a. **General Rights.** Except as otherwise provided herein or as required by law, the Preferred Stock shall be voted equally with the shares of the Common Stock

of the Company and not as a separate class, at any annual or special meeting of shareholders of the Company, and may act by written consent in the same manner as the Common Stock, in either case upon the following basis: each holder of shares of the Preferred Stock shall be entitled to such number of votes as shall be equal to the whole number of shares of Common Stock into which such holder's aggregate number of shares of the Preferred Stock are convertible (pursuant to Section 5 hereof) immediately after the close of business on the record date fixed for such meeting or the effective date of such written consent.

b. Separate Vote of Series A Preferred, Series B Preferred and Series C Preferred. For so long as at least 100,000 shares of Series A Preferred or Series B Preferred or Series C Preferred or any combination thereof (subject to adjustment for any stock split, reverse stock split or other similar event affecting the Series B Preferred or Series C Preferred) remain outstanding, in addition to any other vote or consent required herein or by law, the vote or written consent of the holders of more than fifty percent (50%) of the outstanding Series A, Series B and C Preferred, voting together and not as a separate class, shall be necessary for effecting or validating the following actions:

(i) Any amendment, alteration, or repeal of any provision of the Restated Articles or the Bylaws of the Company;

(ii) Any authorization or any designation, whether by reclassification or otherwise, of any new class or series of stock or any other securities convertible into equity securities of the Company ranking on a parity with or senior to the series A Preferred, Series B Preferred or Series C Preferred in rights of redemption, liquidation preference, voting or dividends;

(iii) Any repurchase of the Company's outstanding securities (except for acquisitions of Common Stock by the Company pursuant to agreements which permit the Company to repurchase such shares upon termination of services to the Company or in exercise of the Company's right of first refusal upon a proposed transfer) or payment of any dividend with respect to Junior Stock; and

(iv) Any agreement by the Company or its shareholders regarding an Asset Transfer or Acquisition (each as defined in Section 3(c)).

c. Election of Board of Directors. For so long as at least 200,000 shares of Series B Preferred remain outstanding (subject to adjustment for any stock split, reverse stock split or similar event affecting the Series B Preferred) (i) the holders of Series B Preferred, voting as a separate class, shall be entitled to elect two (2) members of the Company's Board of Directors at each meeting or pursuant to each consent of the Company's shareholders for the election of directors, and to remove from office any of such directors and to fill any vacancy caused by the resignation, death or removal of any of such directors; (ii) the holders of Common Stock, voting as a separate class, shall be entitled to elect one (1) member of the Board of Directors at each meeting or pursuant to each consent of the Company's shareholders for the election of directors, and to remove from office such director and to fill any vacancy caused by the resignation, death or removal of such director; (iii) the holders of Series A Preferred, voting

as a separate class, shall be entitled to elect one (1) member of the Board of Directors at each meeting or pursuant to each consent of the Company's shareholders for the election of directors, and to remove from office such director and to fill any vacancy caused by the resignation, death or removal of such director; and (iv) the holders of Common Stock, Series A Preferred, Series B Preferred and Series C Preferred, voting together as a class, shall collectively be entitled to elect all remaining members of the Board of Directors.

3. Liquidation Rights.

a. Upon any liquidation, dissolution, or winding up of the Company, whether voluntary or involuntary, before any distribution or payment shall be made to the holders of any Junior Stock, the holders of Preferred Stock shall be entitled to be paid out of the assets of the Company an amount per share of Preferred Stock equal to the applicable Original Issue Price plus all declared and unpaid dividends on such shares of the Preferred Stock (as adjusted for any stock dividends, combinations, splits, recapitalization and the like with respect to such shares) for each share of Preferred Stock held by them.

b. After the payment of the full liquidation preference of the Preferred Stock as set forth in Section 3(a) above, the remaining assets of the Company legally available for distribution, if any, shall be distributed ratably to the holders of the Common Stock.

c. The following events shall be considered a liquidation under Section 3(a):

(i) any consolidation or merger of the Company with or into any other corporation or other entity or person, or any other corporate reorganization, in which the shareholders of the Company immediately prior to such consolidation, merger or reorganization, own less than 50% of the Company's voting power immediately after such consolidation, merger or reorganization, or any transaction or series of related transactions in which in excess of fifty percent (50%) of the Company's voting power is transferred (an "Acquisition"); or

(ii) a sale, lease or other disposition of all or substantially all of the assets of the Company (an "Asset Transfer").

d. If, upon any liquidation, distribution, or winding up, the assets of the Company shall be insufficient to make payment in full to all holders of Preferred Stock of the liquidation preference set forth in Section 3(a), then such assets shall be distributed among the holders of the Preferred Stock at the time outstanding, ratably in proportion to the full amounts to which they would otherwise be respectively entitled.

4. Redemption.

The Preferred Stock shall not be redeemable by the Company.

5. Conversion Rights.

The holders of the Preferred Stock shall have the following rights with respect to the conversion of the Preferred Stock into shares of Common Stock (the "Conversion Rights"):

a. **Optional Conversion.** Subject to and in compliance with the provisions of this Section 5, any shares of Preferred Stock may, at the option of the holder, be converted at any time into fully-paid and nonassessable shares of Common Stock. The number of shares of Common Stock to which a holder of Preferred Stock shall be entitled upon conversion shall be the product obtained by multiplying the applicable conversion rate then in effect (determined as provided in Section 5(b)) by the number of shares of Preferred Stock being converted.

b. **Conversion Rate.** The conversion rate in effect at any time for conversion of the Series A Preferred (the "Series A Preferred Conversion Rate") shall be the quotient obtained by dividing the Original Issue Price of the Series A Preferred by the "Series A Preferred Conversion Price," calculated as provided in Section 5(c). The conversion rate in effect at any time for conversion of shares of Series B Preferred (the "Series B Conversion Rate") shall be the quotient obtained by dividing the Original Issue Price of Series B Preferred by the "Series B Conversion Price," calculated as provided in Section 5(c) below. The conversion rate in effect at any time for conversion of shares of Series C Preferred (the "Series C Conversion Rate") shall be the quotient obtained by dividing the Original Issue Price of Series C Preferred by the "Series C Conversion Price," as calculated as provided in Section 5(c) below. Each of the Series A Conversion Rate, Series B Conversion Rate and Series C Conversion Rate may be referred to herein as the "Conversion Rate".

c. **Conversion Price.** The conversion price for the Series A Preferred shall initially be the Original Issue Price of the Series A Preferred (the "Series A Preferred Conversion Price"). The conversion price for the Series B Preferred (the "Series B Conversion Price") shall initially be the Original Issue Price of the Series B Preferred. The Conversion Price for the Series C Preferred (the "Series C Conversion Price") shall initially be the Original Issue Price of the Series C Preferred. Each of the Series A Conversion Price, Series B Conversion Price and Series C Conversion Price may be referred to herein as the "Conversion Price." Such initial Conversion Price shall be adjusted from time to time in accordance with this Section 5. All references to the Conversion Price herein shall mean the Conversion Price as so adjusted.

d. **Mechanics of Conversion.** Each holder of Preferred Stock who desires to convert the same into shares of Common Stock pursuant to this Section 5 shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Company or any transfer agent for the Preferred Stock, and shall give written notice to the Company at such office that such holder elects to convert the same. Such notice shall state the number of shares of Preferred Stock being converted. Thereupon, the Company shall promptly issue and deliver at such office to such holder a certificate or certificates for the number of shares of Common Stock

to which such holder is entitled and shall promptly pay in cash or, to the extent sufficient funds are not then legally available therefor, in Common Stock (at the Common Stock's fair market value determined by the Board of Directors as of the date of such conversion), any declared and unpaid dividends on the shares of Preferred Stock being converted. Such conversion shall be deemed to have been made at the close of business on the date of such surrender of the certificates representing the shares of Preferred Stock to be converted, and the person entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder of such shares of Common Stock on such date.

e. Adjustment for Stock Splits and Combinations. If the Company shall at any time or from time to time after the date that the first share of Series B Preferred is issued (the "Original Issue Date") effect a subdivision of the outstanding Common Stock without a corresponding subdivision of the Preferred Stock, the applicable Conversion Price in effect immediately before that subdivision shall be proportionately decreased. Conversely, if the Company shall at any time or from time to time after the Original Issue Date combine the outstanding shares of Common Stock into a smaller number of shares without a corresponding combination of the Preferred Stock, the applicable Conversion Price in effect immediately before the combination shall be proportionately increased. Any adjustment under this Section 5(e) shall become effective at the close of business on the date the subdivision or combination becomes effective.

f. Adjustment for Common Stock Dividends and Distributions. If the Company at any time or from time to time after the Original Issue Date makes, or fixes a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable in additional shares of Common Stock, in each such event the applicable Conversion Price that is then in effect shall be decreased as of the time of such issuance or, in the event such record date is fixed, as of the close of business on such record date, by multiplying the applicable Conversion Price then in effect by a fraction (1) the numerator of which is the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date, and (2) the denominator of which is the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date plus the number of shares of Common Stock issuable in payment of such dividend or distribution; provided, however, that if such record date is fixed and such dividend is not fully paid or if such distribution is not fully made on the date fixed therefor, the applicable Conversion Price shall be recomputed accordingly as of the close of business on such record date and thereafter the applicable Conversion Price shall be adjusted pursuant to this Section 5(f) to reflect the actual payment of such dividend or distribution.

g. Adjustments for Other Dividends and Distributions. If the Company at any time or from time to time after the Original Issue Date makes, or fixes a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable in securities of the Company other than shares of Common Stock, in each such event provision shall be made so that the holders of the Preferred Stock shall receive upon conversion thereof, in addition to the number of shares of Common Stock receivable thereupon,

the amount of other securities of the Company which they would have received had their Preferred Stock been converted into Common Stock on the date of such event and had they thereafter, during the period from the date of such event to and including the conversion date, retained such securities receivable by them as aforesaid during such period, subject to all other adjustments called for during such period under this Section 5 with respect to the rights of the holders of the Preferred Stock or with respect to such other securities by their terms.

h. Adjustment for Reclassification, Exchange and Substitution. If at any time or from time to time after the Original Issue Date, the Common Stock issuable upon the conversion of the Preferred Stock is changed into the same or a different number of shares of any class or classes of stock, whether by recapitalization, reclassification or otherwise (other than an Acquisition or Asset Transfer as defined in Section 3(c) or a subdivision or combination of shares or stock dividend or a reorganization, merger, consolidation or sale of assets provided for elsewhere in this Section 5), in any such event each holder of Preferred Stock shall have the right thereafter to convert such stock into the kind and amount of stock and other securities and property receivable upon such recapitalization, reclassification or other change by holders of the maximum number of shares of Common Stock into which such shares of Preferred Stock could have been converted immediately prior to such recapitalization, reclassification or change, all subject to further adjustment as provided herein or with respect to such other securities or property by the terms thereof.

i. Reorganizations, Mergers, Consolidations or Sales of Assets. If at any time or from time to time after the Original Issue Date, there is a capital reorganization of the Common Stock (other than an Acquisition or Asset Transfer as defined in Section 3(c) or a recapitalization, subdivision, combination, reclassification, exchange or substitution of shares provided for elsewhere in this Section 5), as a part of such capital reorganization, provision shall be made so that the holders of the Preferred Stock shall thereafter be entitled to receive upon conversion of the Preferred Stock the number of shares of stock or other securities or property of the Company to which a holder of the number of shares of Common Stock deliverable upon conversion would have been entitled on such capital reorganization, subject to adjustment in respect of such stock or securities by the terms thereof. In any such case, appropriate adjustment shall be made in the application of the provisions of this Section 5 with respect to the rights of the holders of Preferred Stock after the capital reorganization to the end that the provisions of this Section 5 (including adjustment of the applicable Conversion Price then in effect and the number of shares issuable upon conversion of the Preferred Stock) shall be applicable after that event and be as nearly equivalent as practicable.

j. Certificate of Adjustment. In each case of an adjustment or readjustment of the applicable Conversion Price for the number of shares of Common Stock or other securities issuable upon conversion of the Preferred Stock, if the Preferred Stock is then convertible pursuant to this Section 5, the Company, at its expense, shall compute such adjustment or readjustment in accordance with the provisions hereof and prepare a certificate showing such adjustment or readjustment, and shall mail such certificate, by first class mail, postage prepaid, to each registered holder of Preferred Stock at the holder's address as shown in the Company's books. The certificate shall set forth such adjustment or readjustment, showing in

detail the facts upon which such adjustment or readjustment is based, including a statement of the Conversion Price at the time in effect and shall be certified as true and correct by the Chief Financial Officer of the Company.

k. Notices of Record Date. Upon (i) any taking by the Company of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend or other distribution, or (ii) any Acquisition (as defined in Section 3(c)) or other capital reorganization of the Company, any reclassification or recapitalization of the capital stock of the Company, any merger or consolidation of the Company with or into any other corporation, or any Asset Transfer (as defined in Section 3(c)), or any voluntary or involuntary dissolution, liquidation or winding up of the Company, the Company shall mail to each holder of Preferred Stock at least twenty (20) days prior to the record date specified therein a notice specifying (1) the date on which any such record is to be taken for the purpose of such dividend or distribution and a description of such dividend or distribution, (2) the date on which any such Acquisition, reorganization, reclassification, transfer, consolidation, merger, Asset Transfer, dissolution, liquidation or winding up is expected to become effective, and (3) the date, if any, that is to be fixed as to when the holders of record of Common Stock (or other securities) shall be entitled to exchange their shares of Common Stock (or other securities) for securities or other property deliverable upon such Acquisition, reorganization, reclassification, transfer, consolidation, merger, Asset Transfer, dissolution, liquidation or winding up.

l. Automatic Conversion.

(i) Each share of Series A Preferred shall automatically be converted into shares of Common Stock, based on the then-effective Series A Preferred Conversion Price, (A) at any time upon the affirmative election of the holders of at least a majority of the outstanding shares of the Series A Preferred, or (B) immediately upon the closing of a firmly underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, covering the offer and sale of Common Stock for the account of the Company. Each share of Series B Preferred and/or Series C Preferred shall automatically be converted into shares of Common Stock, based on the then-effective Series B Preferred Conversion Price and/or Series C Preferred Conversion Price, respectively, (A) at any time upon the affirmative election of the holders of at least a majority of the outstanding shares of the applicable series of Series B Preferred or Series C Preferred, or (B) immediately upon the closing of a firmly underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, covering the offer and sale of Common Stock for the account of the Company in which (i) the per share price is at least \$5.00, and (ii) the gross cash proceeds to the Company (before underwriting discounts, commissions and fees) are at least \$7,500,000. Upon such automatic conversion, any declared and unpaid dividends shall be paid in accordance with the provisions of Section 5(d).

(ii) Upon the occurrence of the event specified in paragraph (1) above, the outstanding shares of Preferred Stock shall be converted automatically without any further action by the holders of such shares and whether or not the certificates representing such

shares are surrendered to the Company or its transfer agent; provided, however, that the Company shall not be obligated to issue certificates evidencing the shares of Common Stock issuable upon such conversion unless the certificates evidencing such shares of Preferred Stock are either delivered to the Company or its transfer agent as provided below, or the holder notifies the Company or its transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the Company to indemnify the Company from any loss incurred by it in connection with such certificates. Upon the occurrence of such automatic conversion of the Preferred Stock, the holders of the Preferred Stock shall surrender the certificates representing such shares at the office of the Company or any transfer agent for the Preferred Stock. Thereupon, there shall be issued and delivered to such holder promptly at such office and in its name as shown on such surrendered certificate or certificates, a certificate or certificates for the number of shares of Common Stock into which the shares of Preferred Stock surrendered were convertible on the date on which such automatic conversion occurred, and any declared and unpaid dividends shall be paid in accordance with the provisions of Section 5(d).

m. Fractional Shares. No fractional shares of Common Stock shall be issued upon conversion of Preferred Stock. All shares of Common Stock (including fractions thereof) issuable upon conversion of more than one share of Preferred Stock by a holder thereof shall be aggregated for purposes of determining whether the conversion would result in the issuance of any fractional share. If, after the aforementioned aggregation, the conversion would result in the issuance of any fractional share, the Company shall, in lieu of issuing any fractional share, pay cash equal to the product of such fraction multiplied by the Common Stock's fair market value (as determined by the Board) on the date of conversion.

n. Reservation of Stock Issuable Upon Conversion. The Company shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of the shares of the 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 Preferred Stock. If at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Preferred Stock, the Company 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 purpose.

o. Notices. Any notice required by the provisions of this Section 5 shall be in writing and shall be deemed effectively given: (i) upon personal delivery to the party to be notified, (ii) when sent by confirmed telex or facsimile if sent during normal business hours of the recipient; if not, then on the next business day, (iii) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (iv) one (1) day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All notices shall be addressed to each holder of record at the address of such holder appearing on the books of the Company.

p. Payment of Taxes. The Company will pay all taxes (other than taxes based upon income) and other governmental charges that may be imposed with respect to

the issue or delivery of shares of Common Stock upon conversion of shares of Preferred Stock, excluding any tax or other charge imposed in connection with any transfer involved in the issue and delivery of shares of Common Stock in a name other than that in which the shares of Preferred Stock so converted were registered.

q. **No Dilution or Impairment.** Without the consent of the holders of the then outstanding Preferred Stock, as required under Section 2(b), the Company shall not amend its Restated Articles of Incorporation or participate in any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or take any other voluntary action, for the purpose of avoiding or seeking to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Company, but shall at all times in good faith assist in carrying out all such action as may be reasonably necessary or appropriate in order to protect the conversion rights of the holders of the Preferred Stock against dilution or other impairment.

6. **No Reissuance of Preferred Stock.** No share or shares of Preferred Stock acquired by the Company by reason of redemption, purchase, conversion or otherwise shall be reissued; and in addition, the Articles of Incorporation shall be appropriately amended to effect the corresponding reduction in the Company's authorized stock.

7. **No Preemptive Rights.** Shareholders shall have no preemptive rights except as granted by the Company pursuant to written agreements.

IV.

A. The liability of the directors of the Company for monetary damages shall be eliminated to the fullest extent permissible under California law.

B. The Company is authorized to provide indemnification of agents (as defined in Section 317 of the California Corporations Code) for breach of duty to the Company and its shareholders through bylaw provisions or through agreements with agents, or both, in excess of the indemnification otherwise permitted by Section 317 of the General Corporation Law of California, subject to the limits on such excess indemnification set forth in Section 204 of the General Corporation Law of California. If, after the effective date of this Article, California law is amended in a manner which permits a corporation to limit the monetary or other liability of its directors or to authorize indemnification of, or advancement of such defense expenses to, its directors or to authorize indemnification of, or advancement of such defense expenses to, its directors or other persons, in any such case to a greater extent than is permitted on such effective date, the references in this Article to "California law" shall to that extent be deemed to refer to California law as so amended.

C. Any repeal or modification of this Article shall only be prospective and shall not effect the rights under this Article in effect at the time of the alleged occurrence of any action or omission to act giving rise to liability."

THREE: The foregoing amendment and restatement of the articles of incorporation has been duly approved by the Board of Directors of this Company.

FOUR: The foregoing amendment and restatement of the articles of incorporation has been duly approved by the required vote of shareholders in accordance with Section 902 of the California Corporations Code. The Company has two classes of stock outstanding and each class of stock is entitled to vote with respect to the amendment herein set forth. The total number of outstanding shares of the Company is 1,405,264 shares of Common Stock, 529,736 shares of Series A Preferred Stock, 2,508,799 shares of Series B Preferred Stock and 1,207,082 shares of Series C Preferred Stock. The number of shares voting in favor of the amendment equaled or exceeded the vote required. The percentage vote required was more than fifty percent (50%) of the outstanding Common Stock voting as a class and more than fifty percent (50%) of the outstanding Preferred Stock voting as a class.

The undersigned, Christopher Moore and Michael Stern, the President and Secretary, respectively, of iPass Alliance Inc., declare under penalty of perjury that the matters set out in the foregoing Certificate are true of their own knowledge.

Executed at Palo Alto, California on 7/28, 1997.



Christopher Moore, President



Michael Stern, Secretary

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