

10-21-2002



10-21-02

FORM PTO- (Rev 5-93)

102255696

ION FORM COVER SHEET TRADEMARKS ONLY

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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

1. Name of conveying party(ies):

CAPITAL STREAM, INC.

Individual(s) citizenship:

Association:

General Partnership:

Limited Partnership:

Corporation - State: WASHINGTON

Other:

Additional name(s) of conveying party(ies) attached? [] Yes [X] No

3. Nature of Conveyance:

- [] Assignment [] Merger
[X] Security Agreement [] Change of Name
[] Other

Execution Date: September 10, 1999

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

Name: COMERICA BANK-CALIFORNIA
AS SUCCESSOR IN INTEREST TO IMPERIAL BANK
Address: 5330 CARRILLON POINT
City: KIRKLAND State: WA Zip: 98033

Individual(s) citizenship:

Association:

General Partnership:

Limited Partnership:

Corporation - State:

Other: a California chartered bank

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

(Designations must be a separate document from assignment)

Additional name(s) & address(es) attached? [] Yes [x] No

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

A. Trademark Application No. s)

75/868,885 75/868,884 75/868,882

B. Trademark Registration No.(s)

Additional numbers attached? [] Yes [X] No

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

Name: Erin O'Brien
Internal Address: GRAY CARY WARE & FREIDENRICH
4365 Executive Drive, Suite 1100,
San Diego, CA 92121-2133

6 Total number of applications and registrations involved: 3

7. Total fee (37 CFR 3.41) \$ 90.00

[X] Enclosed

[] Authorized to be charged to deposit account

8. Deposit account number: _____

(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.

Erin O'Brien
Name of Person Signing

[Signature]

October 18, 2002
Date

Total number of pages comprising cover sheet: 31

Mail Documents to be recorded with required cover sheet information to:
U.S. Patent and Trademark Office, Office of Public Records
1213 Jefferson Davis Highway, 3rd Floor
Arlington, VA 22202

10/21/2002 DBYRNE 00000114 75868885

01 FC:8521 40.00 OP
02 FC:8522 50.00 OP

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TRADEMARK
REEL: 002601 FRAME: 0558

AMENDED AND RESTATED INTELLECTUAL PROPERTY SECURITY AGREEMENT

This Amended and Restated Intellectual Property Security Agreement is entered into as of September 10, 1999 by and between IMPERIAL BANK ("Bank") and SYSTEM 1 SOFTWARE, INC., a Washington corporation ("Grantor")

RECITALS

A. Bank has agreed to make certain advances of money and to extend certain financial accommodation to Grantor (the "Loans") in the amounts and manner set forth in that certain Amended and Restated Loan and Security Agreement by and between Bank and Grantor dated of even date herewith (as the same may be amended, modified or supplemented from time to time, the "Loan Agreement"); capitalized terms used herein are used as defined in the Loan Agreement). Bank is willing to make the Loans to Grantor, but only upon the condition, among others, that Grantor shall grant to Bank a security interest in certain Copyrights, Trademarks and Patents to secure the obligations of Grantor under the Loan Agreement.

B. Grantor and Bank are parties to that certain Intellectual Property Security Agreement dated as of August 18, 1998 recorded with the U.S. Patent and Trademark Office on October 13, 1998 as Reel/Frame Number 1300/0809 ("the Original Agreement"). Grantor and Bank wish to amend and restate the terms of the Original Agreement. This Agreement sets forth the terms on which Bank and Borrower shall amend and restate the terms of the Original Agreement, and Grantor will grant to Bank a security interest in all of Grantor's right, title and interest, whether presently existing or hereafter acquired, in, to and under all of the Collateral.

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, and intending to be legally bound, as collateral security for the prompt and complete payment when due of its obligations under the Loan Agreement and all other agreements now existing or hereafter arising between Grantor and Bank, Grantor hereby represents, warrants, covenants and agrees as follows:

AGREEMENT

To secure its obligations under the Loan Agreement and under any other agreement now existing or hereafter arising between Bank and Grantor, Grantor grants and pledges to Bank a security interest in all of Grantor's right, title and interest in, to and under its Intellectual Property Collateral (including without limitation those Copyrights, Patents and Trademarks listed on Schedules A, B and C hereto), and including without limitation all proceeds thereof (such as, by way of example but not by way of limitation, license royalties and proceeds of infringement suits), the right to sue for past, present and future infringements, all rights corresponding thereto throughout the world and all re-issues, divisions continuations, renewals, extensions and continuations-in-part thereof.

This security interest is granted in conjunction with the security interest granted to Bank under the Loan Agreement. The rights and remedies of Bank with respect to the security interest granted hereby are in addition to those set forth in the Loan Agreement and the other Loan Documents, and those which are now or hereafter available to Bank as a matter of law or equity. Each right, power and remedy of Bank provided for herein or in the Loan Agreement or any of the Loan Documents, or now or hereafter existing at law or in equity shall be cumulative and concurrent and shall be in addition to every right, power or remedy provided for herein and the exercise by Bank of any one or more of the rights, powers or remedies provided for in this Amended and Restated Intellectual Property Security Agreement, the Loan Agreement or any of the other Loan Documents, or now or hereafter existing at law or in equity, shall not preclude the simultaneous or later exercise by any person, including Bank, of any or all other rights, powers or remedies.

Grantor represents and warrants that Exhibits A, B, and C attached hereto set forth any and all intellectual property rights in connection to which Grantor has registered or filed an application with either the United States Patent and Trademark Office or the United States Copyright Office, as applicable.

IN WITNESS WHEREOF, the parties have caused this Amended and Restated Intellectual Property Security Agreement to be duly executed by its officers thereunto duly authorized as of the first date written above.

GRANTOR:

SYSTEM 1 SOFTWARE, INC.

Address of Grantor:

701 North 35th Street, Suite 301
Seattle, WA 98103

Attn: Alan Fuhrman

By: Alan Fuhrman
Title: VP & CFO

BANK:

IMPERIAL BANK

Address of Bank:

~~777 108th Avenue NE, Suite 1670~~ 5330 ~~Camille, Port~~
~~Bellevue, WA 98004~~ Kirkland WA 98033

Attn: J.P. Michael / Julia Doka

By: J.P. Michael
Title: Vice President

JPM
JD

EXHIBIT A

Copyrights

<u>Description</u>	<u>Registration/ Application Number</u>	<u>Registration/ Application Date</u>
System 1 2.5		
System 1 CenterPoint - Access		
System 1 Plus		
e-Commerce Center		
FormsLink		
FaxLink		
ImageLink		
BureauLink		
UCCLink		
ScoringLink		
System 1 CenterPoint (Oracle/SQL Server Version)		
e-Finance Channel		
System 1 Select		
D&B Link		

EXHIBIT B

Patents

Description

Registration/
Application
Number

Registration/
Application
Date

EXHIBIT C

Trademarks

<u>Description</u>	<u>Registration/ Application Number</u>	<u>Registration/ Application Date</u>
System 1	75/164,625	08/25/98
Centerpoint	75/630,261	01/29/99
E-Commercecenter	75/630,262	01/29/99
Resourcecenter	75/630,260	01/29/99
Capital Stream	75/893,345	01/07/00
Capitalstream	75/893,344	01/07/00
Capitalstream.com	75/893,343	01/07/00
Capstream	75/893,342	01/07/00
Cap Stream	75/893,341	01/07/00
Capstream.com	75/893,340	01/07/00
Capitalstream Centerpoint	76/134,869	09/25/00
Capitalstream Advantage	76/134,870	09/25/00
Applynow	76/145,586	10/12/00
Capitalstream Exchange	76/145,587	10/12/00
E-Financechannel	75/868,882	01/07/00
Leaseitnow	75/868,883	12/13/99
Efinance channel	75/868,884	01/07/00
Financeitnow	75/868,885	12/13/99
(design only)	76/237,891	04/09/01
(design only)	76/237,324	04/09/01
(design only)	76/237,323	04/09/01
(design only)	76/237,322	04/09/01
Capitalstream and design	76/237,321	04/09/01

<u>Description</u>	<u>Registration/ Application Number</u>	<u>Registration/ Application Date</u>
Capitalstream and design	76/237,320	04/09/01
Capitalstream and design	76/237,319	04/09/01
Capitalstream and design	76/237,318	04/09/01
Capitalstream	75/893,344	01/07/00
Capitalstream Exchange	76/145,587	10/12/00
Applynow	76/145,586	10/12/00
Capitalstream Advantage	76/134,870	09/25/00
Capitalstream Centerpoint	76/134,869	09/25/00

FOURTH AMENDMENT
TO
LOAN DOCUMENTS

This Fourth Amendment to Loan Documents is entered into as of September 30, 2000 (the "Amendment"), by and between IMPERIAL BANK ("Bank") and CAPITAL STREAM, INC. ("Borrower").

RECITALS

Borrower and Bank are parties to that certain Amended and Restated Loan and Security Agreement dated as of September 10, 1999, as amended, including without limitation by that certain First Amendment to Loan and Security Agreement dated as of November 9, 1999, that certain Second Amendment to Loan and Security Agreement dated as of December 13, 1999, and that certain Third Amendment to Loan and Security Agreement dated as of December 28, 1999 (collectively, the "Loan Agreement"). In connection with the Loan Agreement, Borrower executed a Amended and Restated Intellectual Property Security Agreement dated as of September 10, 1999, and a Preferred Stock Purchase Warrant dated as of January 11, 2000 (as amended from time to time, collectively with the Loan Agreement, the "Loan Documents"). Each of the Loan Documents refers to Borrower as "SYSTEM 1 SOFTWARE, INC." Borrower has changed its name as reflected in Exhibit E attached hereto, and this Amendment, among other things, corrects the name of Borrower in each of the Loan Documents. The parties desire to amend the Loan Documents in accordance with the terms of this Amendment.

NOW, THEREFORE, the parties agree as follows:

1. All references in the Loan Documents to "SYSTEM 1 SOFTWARE, INC." shall mean and refer to "CAPITAL STREAM, INC."

2. Certain defined terms in Section 1.1 of the Loan Agreement are hereby added or amended to read as follows:

"Equipment Line" means a credit extension of up to Two Million Five Hundred Thousand Dollars (\$2,500,000).

"Revolving Maturity Date" means September 29, 2001.

3. Section 2.1(a) of the Loan Agreement is hereby amended in its entirety to read as follows:

(i) Subject to and upon the terms and conditions of this Agreement, Borrower may request Advances in an aggregate outstanding amount not to exceed the lesser of (i) the Borrowing Base plus \$750,000 and (ii) the Committed Revolving Line minus the aggregate face amount of all outstanding Letters of Credit, including any drawn but unreimbursed amounts. Subject to the terms and conditions of this Agreement, amounts borrowed pursuant to this Section 2.1(a) may be repaid and reborrowed at any time prior to the Revolving Maturity Date, at which time all Advances under this Section 2.1(a) shall be immediately due and payable. Borrower may prepay any Advances without penalty or premium.

4. The reference to "Sixty Thousand Dollars (\$60,000)" in Section 2.1(c) of the Loan Agreement is hereby amended to read "One Hundred Thousand Dollars (\$100,000)".

5. Section 2.3(a) of the Loan Agreement is hereby amended in its entirety to read as follows:

(a) Interest Rates.

(i) Advances. Except as set forth in Section 2.3(b), the Advances shall bear interest, on the outstanding daily balance thereof, at a rate equal to one percent (1.0%) above the Prime Rate.

(ii) Equipment Advances. Except as set forth in Section 2.3(b), the Equipment Advances shall bear interest, on the outstanding daily balance thereof, at a rate equal to one and one half percent (1.50%) above the Prime Rate.

6. Section 6.10 of the Loan Agreement is hereby amended in its entirety to read as follows:

6.10 Tangible Net Worth. Borrower shall maintain, as of the last day of each calendar month a Tangible Net Worth of not less than Six Million Five Hundred Thousand Dollars (\$6,500,000) plus 50% of all proceeds received by Borrower after September 30, 2000 from Subordinated Debt and / or the sale of its equity securities.

7. Unless otherwise defined, all initially capitalized terms in this Amendment shall be as defined in the Loan Agreement. The Loan Agreement, as amended hereby, shall be and remain in full force and effect in accordance with its respective terms and hereby is ratified and confirmed in all respects. Except as expressly set forth herein, the execution, delivery, and performance of this Amendment shall not operate as a waiver of, or as an amendment of, any right, power, or remedy of Bank under the Loan Agreement, as in effect prior to the date hereof. Borrower ratifies and reaffirms the continuing effectiveness of all promissory notes, guaranties, security agreements, mortgages, deeds of trust, environmental agreements, and all other instruments, documents and agreements entered into in connection with the Loan Agreement.

8. Borrower represents and warrants that the Representations and Warranties contained in the Loan Agreement are true and correct as of the date of this Amendment, and that no Event of Default has occurred and is continuing.

9. This Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one instrument.

10. As a condition to the effectiveness of this Amendment, Bank shall have received, in form and substance satisfactory to Bank, the following:

- (a) this Amendment, duly executed by Borrower;
- (b) a nonrefundable loan fee of Twenty-Two Thousand Five Hundred Dollars (\$22,500) plus any Bank Expenses incurred through the date of this Amendment;
- (c) Corporate Resolutions to Borrow;
- (d) an agreement to provide insurance, an automatic debit authorization, and disbursement instructions; and
- (e) such other documents, and completion of such other matters, as Bank may reasonably deem necessary or appropriate.

IN WITNESS WHEREOF, the undersigned have executed this Amendment as of the first date above written.

CAPITAL STREAM, INC.

By: Alan Fuhman
Title: CFO

IMPERIAL BANK

By: [Signature]
Title: AVP

**EXHIBIT A
TO FOURTH AMENDMENT
TO LOAN DOCUMENTS**

Exhibit E

Gray Cary/PA\10077644.2
1090371-908100

STATE of WASHINGTON



SECRETARY of STATE

I, RALPH MUNRO, Secretary of State of the State of Washington and custodian of its seal,

hereby certify by this certificate that the attached is a true and correct copy of

ARTICLES OF AMENDMENT

of

SYSTEM 1 SOFTWARE, INC.
CHANGING NAME TO: CAPITAL STREAM, INC.

Amending and Restating Articles

as filed in this office on January 10, 2000.



Date: February 8, 2000

Given under my hand and the Seal of the State
of Washington at Olympia, the State Capital


s

Ralph Munro, Secretary of State

200-001

TRADEMARK

REEL: 002601 FRAME: 0570

STATE of WASHINGTON



SECRETARY of STATE

I, RALPH MUNRO, Secretary of State of the State of Washington and custodian of its seal, hereby issue this

CERTIFICATE OF AMENDMENT

to

SYSTEM 1 SOFTWARE, INC.

a Washington Profit corporation. Articles of Amendment were filed for record in this office on the date indicated below.

Amending and Restating Articles; and Changing name to CAPITAL STREAM, INC.

UBI Number: 601 022 266

Date: January 10, 2000



Given under my hand and the Seal of the State of Washington at Olympia, the State Capital

Ralph Munro, Secretary of State
2-374160-6

TRADEMARK

SECOND AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
SYSTEM 1 SOFTWARE, INC.

FILED
STATE OF WASHINGTON

JAN 11 2000

RALPH MUNRO
SECRETARY OF STATE

ARTICLE 1. NAME

The name of this corporation is Capital Stream, Inc.

ARTICLE 2. SHARES

2.1 Classes of Stock. This corporation is authorized to issue two classes of stock to be designated, respectively, "Common Stock" and "Preferred Stock." The total number of shares that this corporation is authorized to issue is forty-three million two hundred thirty-three thousand (43,233,000) shares. Thirty million (30,000,000) shares shall be Common Stock, par value \$.001 per share, and thirteen million two hundred thirty-three thousand (13,233,000) shares shall be Preferred Stock, par value \$.001 per share.

2.2 Rights, Preferences and Restrictions of Preferred Stock. The Preferred Stock authorized by these First Amended and Restated Articles of Incorporation may be issued from time to time in one or more series. The first series of Preferred Stock shall be designated "Series A Preferred Stock" and shall consist of three million seventy-six thousand nine hundred twenty-three (3,076,923) shares. The second series of Preferred Stock shall be designated "Series B Preferred Stock" and shall consist of ten million one hundred fifty-six thousand seventy-seven (10,156,077) shares. The rights, preferences, privileges, and restrictions granted to and imposed on the Series A and Series B Preferred Stock are as set forth below in this Section 2.2.

2.2.1 Dividend Provisions. Subject to the rights of series of Preferred Stock which may from time to time come into existence, the holders of shares of Series A or Series B 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 and 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 payable quarterly when, as and if declared by the Board of Directors. Such dividends shall not be cumulative. In the event dividends are paid on any share of Common Stock, a dividend shall be paid with respect to all outstanding shares of Series A and Series B Preferred Stock in an amount at least equal per share (on an as converted basis) to the amount paid or set aside for each share of Common Stock.

2.2.2 Liquidation.

(a) Preference. In the event of any liquidation, dissolution or winding up of this corporation, either voluntary or involuntary, subject to the rights of series of Preferred Stock that may from time to time come into existence, the holders of the Series A and Series B

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 any junior stock by reason of their ownership thereof, an amount per share equal to (i) \$.8125 per share for each share of Series A Preferred Stock then held by them and (ii) \$1.82 per share for each share of Series B Preferred Stock then held by them, plus an amount equal to 8% of the applicable per share purchase price of Series A or Series B per year, compounded annually from the date of purchase of the Series A or Series B Preferred Stock, as the case may be, for each share of Series A or Series B Preferred Stock then held by them. If, upon the occurrence of such event, the assets and funds thus distributed among the holders of the Series A and Series B 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 that 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 and Series B Preferred Stock in proportion to the preferential amount each such holder is otherwise entitled to receive.

(b) Remaining Assets. Upon the completion of the distribution required by Section 2.2.2(a) above and any other distribution that may be required with respect to series of Preferred Stock that may from time to time come into existence, the remaining assets of this corporation available for distribution to shareholders shall be distributed among the holders of the Series A and Series B Preferred Stock and the Common Stock pro rata based on the number of shares of Common Stock held by each (assuming conversion of all such Series A and Series B Preferred Stock) until (i) with respect to the holders of the Series A Preferred Stock, such holders have received an aggregate of \$1.625 per share of Series A Preferred Stock (including amounts paid pursuant to Section 2.2.2(a) above) and (ii) with respect to the holders of the Series B Preferred Stock, such holders shall have received an aggregate of \$3.64 per share of Series B Preferred Stock (including amounts paid pursuant to Section 2.2.2(a) above); thereafter, if assets remain in the Corporation, the holders of the Common Stock of the Corporation shall received all of the remaining assets of the Corporation pro rata based on the number of shares of Common Stock held by each.

(c) (i) For purposes of this Section 2.2.2, a liquidation, dissolution or winding up of this corporation shall be deemed to be occasioned by, and to include, (A) the acquisition of this corporation by another entity or person by means of any transaction or series of related transactions (including, without limitation, any reorganization, merger or consolidation but excluding any merger effected exclusively for the purpose of changing the domicile of this corporation); or (B) a sale or conveyance of all or substantially all of the assets of this corporation; unless this corporation's shareholders of record as constituted immediately prior to such acquisition or sale will, immediately after such acquisition or sale (by virtue of securities issued as consideration for this corporation's acquisition or sale or otherwise) hold more than fifty percent (50%) of the voting power of the surviving or acquiring entity.

(ii) In any of such events, if the consideration received by this corporation or its shareholders is other than cash, its value will be deemed its fair market value. Any securities shall be valued as follows:

(A) Securities not subject to investment letter or other similar restrictions on free marketability covered by (B) below:

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

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

(3) If there is no active public market, the value shall be the fair market value thereof, as determined in good faith by the Board of Directors.

(B) The method of valuation of securities subject to investment letter or other restrictions on free marketability (other than restrictions arising solely by virtue of a shareholder's status as an affiliate or former affiliate) shall be to make an appropriate discount from the market value determined as above in (A) (1), (2) or (3) to reflect the approximate fair market value thereof, as determined in good faith by the Board of Directors.

(iii) In the event the requirements of this subsection 2.2.2(c) are not complied with, this corporation shall forthwith either:

(A) cause such closing to be postponed until such time as the requirements of this Section 2.2.2 have been complied with; or

(B) cancel such transaction, in which event the rights, preferences and privileges of the holders of the Series A and Series B Preferred Stock shall revert to and be the same as such rights, preferences and privileges existing immediately prior to the date of the first notice referred to in subsection 2.2.2(c)(iv) hereof.

(iv) This corporation shall give each holder of record of Series A and Series B Preferred Stock written notice of such impending transaction not later than twenty (20) days prior to the shareholders' meeting called to approve such transaction, if any, or twenty (20) days prior to the closing of such transaction, whichever is earlier, and shall also notify such holders in writing of the final approval of such transaction. The first of such notices shall describe the material terms and conditions of the impending transaction and the provisions of this Section 2.2.2, and this corporation shall thereafter give such holders prompt notice of any material changes. The transaction shall in no event take place sooner than twenty (20) days after this corporation shall have given the first notice provided for herein or sooner than ten (10) days after this corporation shall have given notice of any material changes provided for herein; provided, however, that such periods may be shortened upon the written consent of the holders of the Series A and Series B Preferred Stock that are entitled to such notice rights or similar notice rights and that represent at least a majority of the voting power of all then outstanding shares of the Series A and Series B Preferred Stock.

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

(a) Right to Convert. Subject to Section 2.2.3(c), each share of Series A and Series B Preferred Stock shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share, at the office of this corporation or any transfer agent for such stock, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing (x) (i) \$.8125 in the case of the Series A Preferred Stock and (ii) \$1.82 in the case of the Series B Preferred Stock by (y) the Conversion Price applicable to such share, determined as hereafter provided, in effect on the date the certificate is surrendered for conversion. The initial Conversion Price shall be \$.8125 per share of Series A Preferred Stock and \$1.82 per share of Series B Preferred Stock and shall be subject to adjustment as set forth in Section 2.2.3(d).

(b) Automatic Conversion. Each share of Series A or Series B Preferred Stock shall automatically be converted into shares of Common Stock at the Conversion Price at the time in effect for such share immediately upon the earlier of (i) except as provided below in Section 2.2.3(c), this corporation's sale of its Common Stock in a firm commitment underwritten public offering pursuant to a registration statement under the Securities Act of 1933, as amended (the "Securities Act"), the public offering price of which is not less than \$5.46 per share (appropriately adjusted for any stock split, dividend, combination or other recapitalization) and which results in aggregate gross cash proceeds to this corporation of at least \$42,000,000, or if lower, which is lead managed by an underwriter reasonably acceptable to a majority of the directors of the Company designated by the holders of Preferred Stock or (ii) the date specified by written consent or agreement of the holders of at least fifty-five percent (55%) of the then outstanding shares of Series A and Series B Preferred Stock voting together as a class.

(c) Mechanics of Conversion. Before any holder of Series A or Series B Preferred Stock shall be entitled 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 such series of Preferred Stock, and shall give written notice 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 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 such series of 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 registered pursuant to the Securities Act the conversion may, at the option of any holder tendering such Preferred Stock for conversion, be conditioned upon

the closing with the underwriters of the sale of securities pursuant to such offering, in which event the person(s) entitled to receive Common Stock upon conversion of such Preferred Stock shall not be deemed to have converted such Preferred Stock until immediately prior to the closing of such sale of securities.

(d) Conversion Price Adjustments of Preferred Stock for Certain Dilutive Issuances, Splits and Combinations. The Conversion Price of the Series A and Series B Preferred Stock shall be subject to adjustment from time to time as follows:

(i) Issuance of Additional Stock below Purchase Price. If this corporation shall issue, after the date upon which any shares of Series A or Series B Preferred Stock were first issued (the "Purchase Date" with respect to such shares), any Additional Stock (as defined below) without consideration or for a consideration per share less than the Conversion Price for such series in effect immediately prior to the issuance of such Additional Stock, the Conversion Price for such series in effect immediately prior to each such issuance shall automatically be adjusted as set forth in this Section 2.2.3(d)(i), unless otherwise provided in this Section 2.2.3(d)(i).

(A) Adjustment Formula. Whenever the Conversion Price is adjusted pursuant to this Section 2.2.3(d)(i), the new Conversion Price shall be determined by multiplying the Conversion Price then in effect by a fraction, (x) the numerator of which shall be the number of shares of Common Stock outstanding immediately prior to such issuance (the "Outstanding Common") plus the number of shares of Common Stock that the aggregate consideration received by this corporation for such issuance would purchase at such Conversion Price; and (y) the denominator of which shall be the number of shares of Outstanding Common plus the number of shares of such Additional Stock. For purposes of the foregoing calculation, the term "Outstanding Common" shall include shares of Common Stock deemed issued pursuant to Section 2.2.3(d)(i)(E) below.

(B) Definition of "Additional Stock". For purposes of this Section 2.2.3(d)(i), "Additional Stock" shall mean any shares of Common Stock issued (or deemed to have been issued pursuant to Section 2.2.3(d)(i)(E)) by this corporation after the Purchase Date) other than

(1) Common Stock issued pursuant to a transaction described in Section 2.2.3(d)(ii) hereof,

(2) Shares of Common Stock issuable or issued to employees, consultants or directors of this corporation directly or pursuant to a stock option plan or restricted stock plan approved by the Board of Directors of this corporation (including options granted prior to the Financing) including the unanimous approval of any directors of the Corporation designated by the holders of Preferred Stock,

(3) Capital stock, or options or warrants to purchase capital stock, issued to financial institutions or lessors in connection with commercial credit arrangements, equipment financings or similar transactions,

(4) Shares of Common Stock or Preferred Stock issuable upon exercise of currently outstanding warrants, options, notes or other rights to acquire securities of this corporation,

(5) Capital stock or warrants or options to purchase capital stock issued in connection with bona fide acquisitions, mergers or similar transactions, the terms of which are approved by unanimous vote of the Board of Directors of this corporation,

(6) Shares of Common Stock issued or issuable upon conversion of the Series A or Series B Preferred Stock;

(7) Shares of Common Stock issued or issuable in a public offering in connection with which all outstanding shares of Series A and Series B Preferred Stock will be converted to Common Stock; and

(8) Capital stock or options or warrants to purchase capital stock, excluded from the definition of Additional Stock by the written consent of the holders of a majority of the outstanding shares of preferred stock.

(C) No Fractional Adjustments. No adjustment of the Conversion Price for the Series A or Series B Preferred Stock shall be made in an amount less than one cent 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.

(D) Determination of Consideration. 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. 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 the Board of Directors irrespective of any accounting treatment.

(E) Deemed Issuances of Common Stock. 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, the following provisions shall apply for all purposes of this Section 2.2.3(d)(i):

(1) The aggregate maximum number of shares of Common Stock deliverable upon exercise (assuming the satisfaction of any conditions to exercisability, including without limitation, the passage of time, but without taking into account potential antidilution adjustments) 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 Section 2.2.3(d)(i)(D)), if any, received by this corporation upon the issuance of such options or rights plus the minimum 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 (assuming the satisfaction of any conditions to convertibility or exchangeability, including, without limitation, the passage of time, but without taking into account potential antidilution adjustments) 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 a 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 minimum 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 Sections 2.2.3(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 and Series B 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 and Series B 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 Sections 2.2.3(d)(i)(E)(1) and 2.2.3(d)(i)(E)(2) shall be appropriately adjusted to reflect any change, termination or expiration of the type described in either Section 2.2.3(d)(i)(E)(3) or 2.2.3(d)(i)(E)(4).

(F) No Increased Conversion Price. Notwithstanding any other provisions of this Section 2.2.3(d)(i), except to the limited extent provided for in Sections 2.2.3(d)(i)(E)(3) and 2.2.3(d)(i)(E)(4), no adjustment of the Conversion Price pursuant to this Section 2.2.3(d)(i) shall have the effect of increasing the Conversion Price above the Conversion Price in effect immediately prior to such adjustment.

(ii) Stock Splits and Dividends. If this 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 or the Common Stock Equivalents (including 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 and Series B 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 with the number of shares issuable with respect to Common Stock Equivalents determined from time to time in the manner provided for deemed issuances in Section 2.2.3(d)(i)(E).

(iii) Reverse Stock Splits. 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 and Series B 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. If this corporation shall declare a distribution payable in securities of other persons, evidences of indebtedness issued by this corporation or other persons, assets (excluding cash dividends) or options or rights not referred to in Section 2.2.3(d)(ii), then, in each such case for the purpose of this Section 2.2.3(e), the holders of Series A and Series B Preferred Stock shall be entitled to a proportionate share of any such distribution

as though they were the holders of the number of shares of Common Stock of this corporation into which their shares of Preferred Stock are convertible as of the record date fixed for the determination of the holders of Common Stock of this corporation entitled to receive such distribution.

(f) Recapitalizations. 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 2.2.3 or Section 2.2.2) provision shall be made so that the holders of the Series A and Series B Preferred Stock shall thereafter be entitled to receive upon conversion of such Preferred Stock the number of shares of stock or other securities or property of this corporation or otherwise, to which a holder of Common Stock deliverable upon conversion would have been entitled on such recapitalization. In any such case, appropriate adjustment shall be made in the application of the provisions of this Section 2.2.3 with respect to the rights of the holders of such Preferred Stock after the recapitalization to the end that the provisions of this Section 2.2.3 (including adjustment of the Conversion Price then in effect and the number of shares purchasable upon conversion of such Preferred Stock) shall be applicable after that event and be as nearly equivalent as practicable.

(g) No Impairment. This corporation will 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 will at all times in good faith assist in the carrying out of all the provisions of this Section 2.2.3 and in the taking of all such action as may be necessary or appropriate in order to protect the Conversion Rights of the holders of Series A and Series B Preferred Stock against impairment.

(h) No Fractional Shares and Certificate as to Adjustments.

(i) No fractional shares shall be issued upon the conversion of any share or shares of the Series A or Series B Preferred Stock, and the number of shares of Common Stock to be issued shall be rounded to the nearest whole share. The number of shares issuable upon such conversion shall be determined on the basis of the total number of shares of Series A or Series B 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 or Series B Preferred Stock pursuant to this Section 2.2.3, 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 such 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 or Series B 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 for such series of Preferred Stock at the time in effect, and (C) the number of shares of Common Stock and the amount, if any, of other property which at the time would be received upon the conversion of a share of such series of 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 dividend (other than a cash dividend) or other distribution, any 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 other right, this corporation shall mail to each holder of Series A or Series B Preferred Stock, at least ten (10) days prior to the date specified therein, a notice specifying the date on which any such 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.

(j) Reservation of Stock Issuable Upon Conversion. This corporation 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 Series A and Series B 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 such series of Preferred Stock; and 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 such series of Preferred Stock, in addition to such other remedies as shall be available to the holder of such 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, including, without limitation, engaging in best efforts to obtain the requisite shareholder approval of any necessary amendment to these Articles of Incorporation.

(k) Notices. Any notice required by the provisions of this Section 2.2.3 to be given to the holders of shares of Series A or Series B 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.

2.2.4 Voting Rights.

(a) General Voting Rights. Except with respect to the election of Directors and to such Preferred Stock class votes as provided in these Articles of Incorporation, the holder of each share of Series A or Series B Preferred Stock shall have the right to one vote for each share of Common Stock into which such Series A or Series B Preferred Stock could then be converted. With respect to such vote described herein, such holder shall have full voting rights and powers equal to the voting rights and powers of the holders of Common Stock, and shall be entitled, notwithstanding any provision hereof, to notice of any shareholders' meeting in accordance with the bylaws of this corporation, and shall be entitled to vote, together with holders of Common Stock, with respect to any question upon which holders of Common Stock

have the right to vote. Fractional votes shall not, however, be permitted and any fractional voting rights available on an as-converted basis (after aggregating all shares into which shares of Series A or Series B Preferred Stock held by each holder could be converted) shall be rounded to the nearest whole number (with one-half being rounded upward).

(b) Voting for Election of Directors. The holders of the Common Stock, voting as a separate class, shall be entitled to elect two (2) members of the Board of Directors; the holders of the Series A Preferred Stock, voting as a separate class, shall be entitled to elect two (2) members of the Board of Directors; and the holders of the Series B Preferred Stock, voting as a separate class, shall be entitled to elect two (2) members of the Board of Directors. The seventh member of the Board of Directors shall be elected by the holders of a majority of the holders of the outstanding shares of Common Stock and Series B Preferred Stock voting together as a class.

2.2.5 Protective Provisions. Subject to the rights of series of Preferred Stock which may from time to time come into existence, so long as any shares of Series A or Series B Preferred Stock are outstanding, this corporation shall not take any of the following actions without first obtaining the approval (by vote or written consent, as provided by law) of the holders of at least a fifty-five percent (55.0%) of the then outstanding shares of Series A and Series B Preferred Stock, voting together as a class:

(a) amend these Articles of Incorporation or the bylaws of the Corporation in a manner that would alter or change the rights, preferences, or privileges of the shares of Series A or Series B Preferred Stock;

(b) increase or decrease the number of authorized shares of Common Stock or Preferred Stock;

(c) authorize or issue any shares of capital stock having any preference or priority as to rights in liquidation or to dividends or assets superior to or on a parity with, other than as to the dollar amount per share payable to, the rights of the holders of Series A or Series B Preferred Stock;

(d) undertake any of the actions contemplated in Section 2.2.2(c)(i); provided, that this Section 2.2.5(d) shall not apply to a merger effected exclusively for the purpose of changing the domicile of this corporation;

(e) pay or declare any dividend on any Common Stock or other junior securities;

(f) repurchase or otherwise acquire this corporation's own shares other than (i) pursuant to these Articles of Incorporation or (ii) pursuant to stock purchase or option exercise agreements relating to shares of Common Stock issued to the founders or employees of this corporation or pursuant to rights of first refusal so long as the aggregate amount paid by this

corporation in connection with any repurchase under this clause (ii) may not exceed \$100,000 in any 12-month period;

(g) increase or decrease the authorized size of the Board of Directors of this corporation unless such increase or decrease is unanimously approved by the Board of Directors;

(h) enter into an acquisition of assets or capital stock of another entity for an aggregate consideration of greater than \$5,000,000;

(i) license the "Capital Stream" name to any third party;

(j) materially change the principal business of this corporation unless such change is unanimously approved by the directors designated by the holders of Preferred Stock; or

(k) increase the maximum aggregate number of shares that may be issued under the Company's 1998 Stock Option Plan to more than 6,500,000 shares, unless such increase is unanimously approved by the Board of Directors.

2.2.6 Redemption

(a) Redemption Date and Price. Subject to the rights of series of Preferred Stock which may from time to time come into existence, at any time on or after October 21, 2004, on a date (the "Redemption Date") within thirty (30) days after receipt by this corporation of a written request (a "Redemption Election") from the holders of not less than fifty-five percent (55%) of the then outstanding shares of Series A and Series B Preferred Stock that all of the outstanding shares of Series A and Series B Preferred Stock be redeemed, this corporation shall, to the extent it may lawfully do so, redeem such shares in accordance with the procedures set forth in this Section 2.2.6 by paying in cash therefor a sum per share equal to (i) \$.8125 per share of Series A Preferred Stock and (ii) \$1.82 per share of Series B Preferred Stock (as adjusted for any stock dividends, combinations or splits with respect to such shares) plus an amount equal to 8% of the applicable per share purchase price of Series A or Series B per year, compounded annually from the date of purchase of the Series A or Series B Preferred Stock, as the case may be, for each share of Series A or Series B Preferred Stock then held by them (the "Redemption Price"). The Redemption Price may, at this corporation's option, be payable in two equal and annual installments; provided, however, that the 8% payment set forth above shall continue to accrue and cumulate until the Redemption Price has been paid in full.

(b) Procedure. Subject to the rights of series of Preferred Stock which may from time to time come into existence, within fifteen (15) days following its receipt of the Redemption Election, this corporation shall mail a written notice, 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 Series A and Series B Preferred Stock at the address last shown on the records of this corporation for such holder, notifying such holder of the redemption to be

effected, specifying the number of shares to be redeemed from such holder, the Redemption Date, the applicable Redemption Price, the place at which payment may be obtained and calling upon such holder to surrender to this corporation, in the manner and at the place designated, such holder's certificate or certificates representing the shares to be redeemed (the "Redemption Notice"). Except as provided in Section 2.2.6(c) on or after the Redemption Date, each holder of Series A or Series B 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 Redemption Price of such shares shall be payable to the order of the person whose name appears on such certificate or certificates as the owner thereof and each surrendered certificate shall be canceled.

(c) Effect of Redemption; Insufficient Funds. From and after the Redemption Date, if the funds for payment of the Redemption Price have been deposited by this corporation with a bank or trust corporation as provided in Section 2.2.6(d), all rights of the holders of shares of Series A and Series B Preferred Stock designated for redemption in the Redemption Notice (except the right to receive the 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. Subject to the rights of series of Preferred Stock which may from time to time come into existence, if the funds of this corporation legally available for redemption of shares of Series A and Series B Preferred Stock on the Redemption Date are insufficient to redeem the total number of shares of Series A and Series B Preferred Stock to be redeemed on such date, 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 to be redeemed based upon the total Redemption Price applicable their holdings of Series A or Series B Preferred Stock. The shares of Series A or Series B Preferred Stock not redeemed shall remain outstanding and entitled to all the rights and preferences provided herein. Subject to the rights of series of Preferred Stock which may from time to time come into existence, at any time thereafter when additional funds of this corporation are legally available for the redemption of shares of Series A or Series B Preferred Stock, such funds will immediately be used to redeem the balance of the shares which this corporation has become obliged to redeem on the Redemption Date but which it has not redeemed.

(d) Redemption Fund. On or prior to the Redemption Date, this corporation shall deposit the Redemption Price of all shares of Series A and Series B Preferred Stock designated for redemption in the Redemption Notice, and not yet redeemed or converted, with a bank or trust corporation having aggregate capital and surplus in excess of \$100,000,000 as a trust fund for the benefit of the respective holders of the shares designated for redemption and not yet redeemed, with irrevocable instructions and authority to the bank or trust corporation to publish the notice of redemption thereof and pay the applicable Redemption Price for such shares to their respective holders on or after the Redemption Date, upon receipt of notification from this corporation that such holder has surrendered such holder's share certificate to this corporation pursuant to Section 2.2.6(b) above. As of the later of the date of such deposit and the Redemption Date, the deposit shall constitute full payment of the shares to their holders, and

from and after the date of the deposit the shares so called for redemption shall be redeemed and shall be deemed to be no longer outstanding, and the holders thereof shall cease to be shareholders with respect to such shares and shall have no rights with respect thereto except the rights to receive from the bank or trust corporation payment of the applicable Redemption Price of the shares, without interest, upon surrender of their certificates therefor. The balance of any moneys deposited by this corporation pursuant to this Section 2.2.6(d) remaining unclaimed at the expiration of two (2) years following the Redemption Date shall thereafter be returned to this corporation upon its request expressed in a resolution of its Board of Directors.

2.2.7 Status of Converted or Redeemed Stock. If any shares of Series A or Series B Preferred Stock shall be converted pursuant to Section 2.2.3 hereof or redeemed pursuant to Section 2.2.6 hereof, the shares so converted or redeemed shall be canceled and shall not be issuable by this corporation. The Articles of Incorporation of this corporation shall be appropriately amended to effect the corresponding reduction in this corporation's authorized capital stock.

2.3 Common Stock. The rights, preferences, privileges and restrictions granted to and imposed on the Common Stock are as set forth below in this Section 2.3.

2.3.1 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 funds of this corporation legally available therefor, such dividends as may be declared from time to time by the Board of Directors.

2.3.2 Liquidation Rights. Upon the liquidation, dissolution or winding up of this corporation, the assets of this corporation shall be distributed as provided in Section 2.2.2.

2.3.3 Redemption. The Common Stock is not redeemable.

2.3.4 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.

ARTICLE 3. REGISTERED OFFICE AND AGENT

The name of the registered agent of this corporation and the address of its registered office are as follows:

Corporation Service Company
1010 Union Avenue, Suite B
Olympia, Washington 98501-1539

ARTICLE 4. PREEMPTIVE RIGHTS

No preemptive rights shall exist with respect to shares of stock or securities convertible into shares of stock of this corporation.

ARTICLE 5. CUMULATIVE VOTING

Subject to certain rights of the holders of Common Stock and Series A and Series B Preferred Stock with respect to the election of Directors as provided in Section 2.2.4(b) of these Articles of Incorporation, the right to cumulate votes in the election of Directors shall not exist with respect to shares of stock of this corporation.

ARTICLE 6. DIRECTORS

The number of Directors of this corporation shall be determined in the manner provided by the Bylaws and may be increased or decreased from time to time in the manner provided therein, subject to Section 2.2.5 of these Articles of Incorporation.

ARTICLE 7. BYLAWS

Subject to Section 2.2.5 of these Articles of Incorporation, the Board of Directors shall have the power to adopt, amend or repeal the Bylaws of this corporation, subject to the power of the shareholders to amend or repeal such Bylaws. Subject to Section 2.2.5 of these Articles of Incorporation, the shareholders shall also have the power to amend or repeal the Bylaws of this corporation and to adopt new Bylaws.

ARTICLE 8. AMENDMENTS TO ARTICLES OF INCORPORATION

Except as provided in Section 2.2.5 of these Articles of Incorporation, this corporation reserves the right to amend or repeal any of the provisions contained in these Articles of Incorporation in any manner now or hereafter permitted by law or by these Articles of Incorporation, and the rights of the shareholders of this corporation are granted subject to this reservation.

ARTICLE 9. ACTION BY SHAREHOLDERS WITHOUT A MEETING

Any action which could be taken at a meeting of the shareholders may be taken without a meeting or a vote if the action is taken by written consent of shareholders holding of record or otherwise entitled to vote in the aggregate not less than the minimum number of votes necessary to authorize or take such action at a meeting at which all shares entitled to vote on the action were present and voted. A notice of the taking of action by shareholders by less than unanimous written consent shall be mailed at least one business day, or such longer period as is required by law, prior to the date the action becomes effective to those shareholders entitled to vote on the action who have not consented in writing, and, if required by law that notice of a meeting of

shareholders to consider the action be given to nonvoting shareholders, to all nonvoting shareholders of the Corporation. Any such notice shall be in such form as may be required by applicable law. Any consent delivered to the Corporation pursuant to this Article shall be inserted in the minute book as if it were the minutes of a meeting of the shareholders.

ARTICLE 10. VOTING BY MAJORITY

Except as is otherwise expressly provided in these Articles of Incorporation, the shareholders shall be permitted to take action by the affirmative vote of shareholders entitled to vote on an action holding a majority-in-interest to the fullest extent permitted under RCW 23B.07.270(3).

ARTICLE 11. LIMITATION OF DIRECTOR LIABILITY

To the full extent that the Washington Business Corporation Act, as it exists on the date hereof or may hereafter be amended, permits the limitation or elimination of the liability of Directors, a Director of this corporation shall not be liable to this corporation or its shareholders for monetary damages for conduct as a Director. Any amendments to or repeal of this Article 10 shall not adversely affect any right or protection of a Director of this corporation for or with respect to any acts or omissions of such Director occurring prior to such amendment or repeal.

DATED: January 10, 2000

SYSTEM 1 SOFTWARE, INC.

By: 
Stephen Campbell, President

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