

12-13-2002

Form PTO-1594
(Rev. 10/02)
OMB No. 0651-0027 (exp. 6/30/2005)
Tab settings → → → ▼

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S. DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office

102311039

To the Honorable Commissioner of Patents and Trademarks: Please record and return all documents or copy thereof.

1. Name of conveying party(ies):

12-9-02

G & H 1994, Inc.

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

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

3. Nature of conveyance:

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

Execution Date: December 7, 1994

2. Name and address of receiving party(ies)

Name: G & H Technology, Inc.

Internal

Address:

Street Address: 750 West Ventura Blvd.

City: Camarillo State: CA Zip: 93010

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

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 No

OFFICE OF PROSECUTION RECORDS
2002 DEC -9 AM 10:37
FINANCE SECTION

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

A. Trademark Application No.(s) _____

B. Trademark Registration No.(s) _____

1,105,976

Additional number(s) attached Yes No

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

Name: Loletta L. Darden

Internal Address: _____

Street Address: Sachnoff & Weaver, Ltd.

30 South Wacker Drive, 29th Floor

City: Chicago State: IL Zip: 60606

6. Total number of applications and registrations involved: 1

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

- Enclosed Check No. 072487
- Authorized to be charged to deposit account

8. Deposit account number: _____

DO NOT USE THIS SPACE

9. Signature.

Loletta L. Darden

Name of Person Signing

Loletta L. Darden

Signature

12/09/02

Date

Total number of pages including cover sheet, attachments, and document: 34

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

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TRADEMARK
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Delaware

PAGE 1

The First State

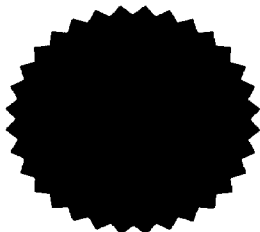
I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED ARE TRUE AND CORRECT COPIES OF ALL DOCUMENTS ON FILE OF "G&H 1994, INC." AS RECEIVED AND FILED IN THIS OFFICE.

THE FOLLOWING DOCUMENTS HAVE BEEN CERTIFIED:

CERTIFICATE OF INCORPORATION, FILED THE SEVENTEENTH DAY OF NOVEMBER, A.D. 1994, AT 12:30 O'CLOCK P.M.

CERTIFICATE OF MERGER, FILED THE EIGHTH DAY OF DECEMBER, A.D. 1994, AT 2:30 O'CLOCK P.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE AFORESAID CERTIFICATES ARE THE ONLY CERTIFICATES ON RECORD OF THE AFORESAID CORPORATION.



Harriet Smith Windsor

Harriet Smith Windsor, Secretary of State

2453678 8100H

020216235

AUTHENTICATION: 1702738

DATE: 04-04-02

TRADEMARK
REEL: 002632 FRAME: 0356

CERTIFICATE OF INCORPORATION

OF

G&H 1994, INC.

1. The name of the corporation is:

G&H 1994, Inc.

2. The address of its registered office in the State of Delaware is 32 Lookerman Square, Suite L-100, in the City of Dover, County of Kent. The name of its registered agent at such address is The Prentice-Hall Corporation System, Inc.

3. The nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

4. The total number of shares of stock which the corporation shall have authority to issue is One Thousand (1,000), all of which shall be Common Stock, and the par value of each share shall be one cent (\$.01).

5. The name and mailing address of the incorporator is:


Victoria C. Phelps
Latham & Watkins
633 West Fifth Street
Suite 4000
Los Angeles, California 90071

6. In furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized to adopt, amend or repeal the bylaws of the corporation.

7. Election of directors need not be by written ballot unless the bylaws of the corporation shall so provide.

8. No director of the corporation shall be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of the law, (iii) under Section 174 of the General Corporation Law of Delaware, or (iv) for any transaction from which the director derived an improper personal benefit.

I, THE UNDERSIGNED, being the sole incorporator hereinbefore named, for the purpose of forming a corporation pursuant to the General Corporation Law of the State of Delaware, do make this certificate, herein declaring and certifying that this is my act and deed and the facts herein stated are true, and accordingly have hereunto set my hand this 17th day of November, 1994.


Victoria C. Phelps

CERTIFICATE OF MERGER

OF

G&H 1994, INC.
(a Delaware corporation)

WITH AND INTO

G&H TECHNOLOGY, INC.
(a Delaware corporation)

It is hereby certified that:

1. The constituent business corporations participating in the merger herein certified are:

(i) G&H 1994, Inc., which is incorporated under the laws of the State of Delaware ("G&H 1994"); and

(ii) G&H Technology, Inc., which is incorporated under the laws of the State of Delaware ("G&H Technology").

2. An Agreement of Merger has been approved, adopted, certified, executed, and acknowledged by each of the aforesaid constituent corporations in accordance with the provisions of subsection (c) of Section 251 of the General Corporation Law of the State of Delaware.

3. G&H 1994 hereby merges with and into G&H Technology. G&H Technology is the surviving corporation (the "Surviving Corporation") in such merger (the "Merger") and shall continue its existence under its present name upon the effective date of the Merger pursuant to the provisions of the General Corporation Law of the State of Delaware.

4. The Restated Certificate of Incorporation of G&H Technology shall be amended and restated in its entirety, in the form of the Restated Certificate of Incorporation attached as Exhibit A hereto, and such Restated Certificate of Incorporation shall be the Restated Certificate of Incorporation of the Surviving Corporation after the effective time of the Merger and shall continue in full force and effect until changed, altered or amended as therein provided and in the manner prescribed by the provisions of the General Corporation Law of the State of Delaware.

5. The executed Agreement of Merger between the aforesaid constituent corporations is on file at the principal place of business of the aforesaid surviving corporation, the address of which is as follows:

G&H Technology, Inc.
750 West Ventura Boulevard
Camarillo, California 93010

6. A copy of the aforesaid Agreement of Merger will be furnished by the aforesaid surviving corporation, on request, and without cost, to any stockholder of each of the aforesaid constituent corporations.

7. The Agreement of Merger between the aforesaid constituent corporations provides that the Merger shall be effective at the time of filing of this Certificate of Merger with the Secretary of State of the State of Delaware.

Dated: December 7, 1994

G&H Technology, Inc.

By: 

Carl Weiss
President

Attest:

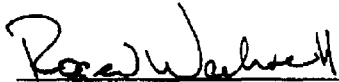

Roger Wachtell
Secretary

EXHIBIT A TO
CERTIFICATE OF MERGER

RESTATED CERTIFICATE OF INCORPORATION

OF

G&H TECHNOLOGY, INC.

FIRST: The name of the corporation is G&H Technology, Inc. (hereinafter the "Corporation").

SECOND: The address of the registered office of the Corporation in the State of Delaware is 32 Lockerman Square, Suite L-100, in the City of Dover, County of Kent. The name of its registered agent at that address is The Prentice-Hall Corporation System, Inc.

THIRD: The purpose of the Corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of the State of Delaware (the "GCL").

FOURTH: The total number of shares of capital stock which the Corporation shall have authority to issue is 1,200,000 shares, consisting of (i) 1,000,000 shares of Class A Common Stock, par value \$0.01 per share (the "Class A Common"), (ii) 100,000 shares of Class B Common Stock, par value \$0.01 per share (the "Class B Common") and (iii) 100,000 shares of Preferred Stock, par value \$0.01 per share (the "Preferred Stock").

I. COMMON STOCK

Except as otherwise provided herein or as otherwise required by applicable law, all shares of Common Stock will be identical in all respects and will entitle the holders thereof to the same rights and privileges.

(1) Voting Rights.

(i) Except as expressly provided herein or as required under the GCL, on all matters to be voted on by the Corporation's stockholders (a) each holder of record of shares of Class A Common will be entitled to one vote per share so held, and (b) holders of shares of Class B Common will be entitled to no voting rights. The holders of Class A Common, voting as a separate class, shall be entitled to elect all directors of this Corporation other than the Preferred Directors (as defined in paragraph II (5) of this Article Fourth).

(ii) Except as expressly provided herein or as expressly required under the GCL, on any matter on which holders of Class B Common shall be entitled to vote, they shall be entitled to one vote per share and shall vote together as a single class with the holders of the Class A Common and the Series A Preferred Stock (as defined in paragraph II (1) of this Article Fourth).

(2) Dividends. When and as dividends are declared or paid on shares of Common Stock, whether in cash, property or securities of the Corporation, each holder of record of shares of Common Stock will be entitled to a ratable portion of such dividend, based upon the number of shares of Common Stock then held of record by each such holder, provided that (i) if dividends are declared in shares of Common Stock, such dividend will be declared and paid at the same rate on each class of Common Stock, and dividends payable in shares of a specific class of Common Stock will be payable only to holders of that particular class of Common Stock and (ii) if the dividends consist of other voting securities of the Corporation, the Corporation will make available to each holder of Class B Common, at such holder's request, dividends consisting of non-voting securities of the Corporation which are otherwise identical to the voting securities and which are convertible into or exchangeable for such voting securities on the same terms as the Class B Common is convertible into the Class A Common.

(3) Stock Splits; Combinations. If the Corporation, in any manner, subdivides or combines the outstanding shares of one class of Common Stock, the outstanding shares of the other class of Common Stock will be proportionately subdivided or combined.

(4) Liquidation. The holders of the Common Stock will be entitled to share ratably, on the basis of shares of Common Stock then held by each such holder, in all distributions to the holders of the Common Stock in any liquidation, dissolution or winding up of the Corporation.

(5) Conversion.

(A) Conversion of Class B Common. Upon the transfer (the "Transfer") of any shares of Class B Common by the holder of such shares to a third party (the "Transferee"), each such share of Class B Common shall be converted into one share of Class A Common, unless (i) such Transferee is Creditanstalt-Bankverein, a bank organized under the laws of the Republic of Austria, or (ii) prior to the consummation of such Transfer, the Transferee certifies in writing to the Corporation that, in the reasonable judgment of such Transferee, such Transferee has a Regulatory Problem.

(B) Conversion Procedure.

(i) The conversion described in the foregoing paragraph A shall be deemed to have been effected upon the consummation of the Transfer. At such time, the rights of the Transferee shall be deemed to have become the holder of record of an equal number of shares of Class A Common.

(ii) The issuance of certificates for Class A Common upon conversion of Class B Common will be made without charge to the holders of such shares for any issuance tax in respect thereof or other cost incurred by the Corporation in connection with such conversion and the related issuance of such Class A Common.

(iii) The Corporation will at all times reserve and keep available out of its authorized but unissued shares of Class A Common the number of such shares sufficient for issuance upon conversions of Class B Common.

(6) Amendment and Waiver. No amendment or waiver of any provision of this paragraph I of Article Fourth will be effective without the prior approval of the holders of a majority of the then outstanding Common Stock voting as a single class and the holders of a majority of the then outstanding Class B Common Stock voting as a single class.

(7) Merger; Etc. In connection with any merger, consolidation or recapitalization in which holders of Class A Common generally receive, or are given the opportunity to receive, consideration for their shares, then, in all such circumstances, (i) all holders of Class B Common shall be given the opportunity to receive the same form of consideration for their shares as is received by holders of Class A Common and (ii) all holders of Class B Common shall be entitled to receive the same amount of consideration per share as received by holders of Class A Common.

(8) Definitions. For purposes of this paragraph I of Article Fourth, the term "Regulatory Problem", with respect to any Transferee, means any regulatory or statutory authority or other legal disability preventing such Transferee from holding voting securities of the Corporation.

II. PREFERRED STOCK

The Preferred Stock may be issued in one or more classes or series and shall have such voting powers, full or limited, or no voting powers, and such designations, preferences and relative, participating, optional or other special rights, and qualifications or restrictions thereof, as shall be stated and expressed in this Restated Certificate of Incorporation or in any amendment hereto, or in a resolution or resolutions providing for the issuance of any wholly unissued class or series of such stock adopted by the Board of Directors of the Corporation. Except as to the relative preferences, powers, dividends, qualifications, rights and privileges, in respect of any or all of which there may be variations between different classes or series of Preferred Stock, all shares of Preferred Stock shall be of equal rank. Different series of Preferred Stock shall not be construed to constitute different classes of shares for the purpose of voting by classes unless otherwise specifically set forth herein or in any resolution or resolutions of the Board of Directors establishing such series. The authority of the Board of Directors with respect to the Preferred Stock or any class or series thereof shall include, without limitation, the authority to provide that any such class or series may be (i) subject to redemption at such time or times and at such price or prices; (ii) entitled to receive dividends (which may be cumulative or non-cumulative and may be payable in cash, stock or other property) at such rates, on such conditions, and at such times, and payable in preference to, or in such relation to, the dividends payable on any other class or classes or any other series; (iii) entitled to such rights upon the dissolution of, or upon any distribution of the assets of, the Corporation; or (iv)

convertible into, or exchangeable for, shares of any other class or classes of stock, or of any other series of the same or any other class or classes of stock, or indebtedness or other property, of the Corporation at such price or prices or at such rates of exchange and with such adjustments; all as may be stated in such resolution or resolutions.

The initial series of Preferred Stock is hereby created with the designation, powers, preferences and rights set forth below:

(1) Designation. There shall be a series of Preferred Stock designated as "Series A Convertible Participating Preferred Stock" (the "Series A Preferred Stock"). The number of shares initially constituting such series shall be 32,500.

(2) Rank. The Series A Preferred Stock shall, with respect to dividend and other distribution rights, and rights on liquidation, winding up and dissolution, rank (i) pari passu with any class of capital stock or series of Preferred Stock hereafter created which expressly provides that it ranks pari passu with the Series A Preferred Stock as to dividends, other distributions, liquidation preference and otherwise (collectively the "Parity Securities"), and (ii) senior to the Common Stock and any other class of capital stock or series of Preferred Stock hereafter created which does not expressly provide that it ranks senior to or pari passu with the Series A Preferred Stock as to dividends, other distributions, liquidation preference and otherwise (collectively, the "Junior Securities").

(3) Dividends.

(a) In the event that the Corporation shall at any time or from time to time declare, order, pay or make a dividend or other distribution (whether in cash, securities or other property) on its Common Stock, the holders of shares of the Series A Preferred Stock shall be entitled to receive from the Corporation, with respect to each share of Series A Preferred Stock held, a dividend or distribution that is the same dividend or distribution that would be received by a holder of the number of shares of Class A Common Stock into which such share of Series A Preferred Stock is convertible pursuant to the provisions of paragraph II(6) hereof on the record date for such dividend or distribution. Any such dividend or distribution shall be declared, ordered, paid or made on the Series A Preferred Stock at the same time such dividend or distribution is declared, ordered, paid or made on the Common Stock. Dividends on shares of the Series A Preferred Stock shall accrue and be cumulative.

(b) So long as any shares of Series A Preferred Stock shall be outstanding, the Corporation shall not declare or

pay or set apart for payment any dividends or make any other distributions on, or make payment on account of the purchase, redemption or other retirement of, any Junior Securities, whether in cash, property or otherwise (other than dividends or distributions payable in shares of the class or series upon which such dividends or distributions are declared or paid, nor shall the Corporation make any distribution on any Junior Securities, nor shall any Junior Securities be purchased or redeemed by the Corporation or any of its Subsidiaries, nor shall any monies be paid or made available for a sinking fund for the purchase or redemption of any Junior Securities, unless with respect to all of the foregoing all dividends or other distributions to which the holders of Series A Preferred Stock shall have been entitled, pursuant to paragraph II(3) (a) hereof, shall have been paid or declared and a sum of money has been set apart for the full payment thereof; provided, however, that the Corporation may purchase or redeem Management Options or shares of Common Stock which were issued pursuant to the Management Options, in each case from any person other than Thomas Cleary, Roger Wachtell or Carl Weiss, in accordance with the terms of the Management Options.

(c) In the event that full dividends are not paid or made available to the holders of all outstanding shares of Series A Preferred Stock and of any Parity Securities and funds available for payment of dividends shall be insufficient to permit payment in full to holders of all such stock of the full preferential amounts to which they are then entitled, then the entire amount available for payment of dividends shall be distributed ratably among all such holders of Series A Preferred Stock and of any Parity Securities in proportion to the full amount to which they would otherwise be respectively entitled.

(4) Preference on Liquidation.

(a) In the event that the Corporation shall commence a voluntary case under the Federal bankruptcy laws or any other applicable Federal or state bankruptcy, insolvency or similar law, or consent to the entry of an order for relief in an involuntary case under such law or to the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator (or other similar official) of the Corporation or of any substantial part of its property, or make an assignment for the benefit of its creditors, or admit in writing its inability to pay its debts generally as they become due, or if a decree or order for relief in respect of the Corporation shall be entered by a court having jurisdiction in the premises in an involuntary case under the Federal bankruptcy laws or any other applicable Federal or state bankruptcy, insolvency or similar law, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or other similar official) of the Corporation or of

any substantial part of its property, or ordering the winding up or liquidation of its affairs, and on account of any such event the Corporation shall liquidate, dissolve or wind up, or if the Corporation shall otherwise liquidate, dissolve or wind up, no distribution shall be made to the holders of shares of Common Stock or other Junior Securities (and no monies shall be set apart for such purpose) unless prior thereto, the holders of shares of Series A Preferred Stock shall have received an amount per share equal to the greater of (i) the sum of (x) the Stated Value, plus (y) all declared, accrued but unpaid dividends thereon through the date of distribution (collectively, the "Series A Liquidation Preference") and (ii) ratable distributions determined with respect to the holders of Series A Preferred Stock and Common Stock on the basis of the number of shares of Class A Common Stock into which such Series A Preferred Stock could be converted pursuant to the provisions of paragraph II(6) hereof immediately prior to such distribution.

(b) If, upon any such liquidation, dissolution or other winding up of the affairs of the Corporation, the assets of the Corporation shall be insufficient to permit the payment in full of the Series A Liquidation Preference for each share of Series A Preferred Stock then outstanding and the full liquidating payments on all Parity Securities, then the assets of the Corporation remaining after the distribution to holders of any Senior Securities of the full amounts to which they may be entitled shall be ratably distributed among the holders of Series A Preferred Stock and of any Parity Securities in proportion to the full amounts to which they would otherwise be respectively entitled if all amounts thereon were paid in full.

(c) Neither the voluntary sale, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all the property or assets of the Corporation nor the consolidation, merger or other business combination of the Corporation with or into one or more corporations shall be deemed to be a liquidation, dissolution or winding-up, voluntary or involuntary, of the Corporation.

(5) Voting.

(a) General. In addition to any voting rights provided in this Restated Certificate of Incorporation or by law, the Series A Preferred Stock shall vote together with the Class A Common as a single class on all actions to be voted on by the stockholders of the Corporation other than in the election of directors. Each share of Series A Preferred Stock shall entitle the holder thereof to such number of votes per share on each such action as shall equal the number of shares of Class A Common (including fractions of a share) into which each share of Series A Preferred Stock is then convertible. The holders of Series A

Preferred Stock shall be entitled to notice of any stockholder's meeting in accordance with Article Tenth hereof.

(b) Board of Directors. Except as otherwise expressly provided in paragraph II(5)(c) hereof, the Corporation shall not, without the written consent or affirmative vote of the holders representing at least a majority of the shares of Series A Preferred Stock then outstanding, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class, increase the maximum number of directors constituting the Board of Directors to a number in excess of five (5):

(c) Election of Directors. The holders of Series A Preferred Stock, voting as a separate class, shall be entitled to elect two (2) directors of the Corporation (the "Initial Preferred Directors"). Upon the occurrence of a Series A Default and without further action by the Corporation or any of its stockholders, so long as REI shall own or have the right to vote a majority of the shares of Series A Preferred Stock then outstanding, the number of directors constituting the Board of Directors shall be increased by two (2) and the holders of Series A Preferred Stock shall have the right, voting as a separate class, to elect two (2) additional directors of the Corporation to fill such newly created directorships (the "Additional Directors" and, together with the Initial Preferred Directors, the "Preferred Directors") and thereafter to elect, voting as a separate class, the increased number of Preferred Directors as herein provided. In the event that (A) a Series A Default shall cease to exist and (B) the number of directors constituting the Board of Directors of the Corporation remains increased by two (2) pursuant to the foregoing sentence, then (i) the number of directors constituting the Board of Directors shall be decreased by two (2), and (ii) the Additional Directors, if any, shall cease to be the directors of the Corporation.

At any meeting (or in a written consent in lieu thereof) held for the purpose of electing Preferred Directors, (i) the presence in person or by proxy (or the written consent) of the holders representing a majority of the shares of Series A Preferred Stock then outstanding shall constitute a quorum of such class for the election of the Preferred Directors; and (ii) the absence of the presence in person or by proxy (or written consent) of a quorum of holders of the shares of Common Stock then outstanding shall not affect the right of a quorum of holders of Series A Preferred Stock to elect the Preferred Directors. Any Preferred Director may be removed by, and shall not be removed except by, the holders representing a majority of the shares of Series A Preferred Stock then outstanding present in person or by proxy and voting at a meeting of stockholders, or of the holders of Series A Preferred Stock called for that

purpose, or by written consent signed by the holders representing a majority of the shares of Series A Preferred Stock then outstanding.

A vacancy in any of the directorships to be held by the Preferred Directors shall be filled only by vote or written consent of the holders of the Series A Preferred Stock as provided above. Unless otherwise required by the laws of the State of Delaware, any holder or holders of at least a majority of the outstanding shares of Series A Preferred Stock shall have the right to call a meeting of the stockholders of the Corporation (or to execute a written consent in lieu of such a meeting) for the purpose of electing Preferred Directors and filling vacancies of Preferred Directors. In the case of a vacancy in one of the directorships of a Preferred Director (including, but not limited to, by reason of an increase in the number of directors of the Corporation pursuant to the second sentence paragraph II (5) (c) hereof), the remaining Preferred Director(s) shall have the right to designate a successor or Additional Director to the vacant directorship, and the successor or Additional Director shall serve until the next election of Directors or his earlier resignation or removal.

(d) Class Vote. At any time when shares of Series A Preferred Stock are outstanding, except where the vote or written consent of the holders representing a greater number of shares of Series A Preferred Stock is required by law or by this Restated Certificate of Incorporation and in addition to any vote required by law or by this Restated Certificate of Incorporation, without the approval of the holders representing at least a majority of the shares of Series A Preferred Stock then outstanding, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class, the Corporation shall not:

(i) amend or repeal any provision of, or add any provision to, this Restated Certificate of Incorporation or the Bylaws of the Corporation if such action would alter, change or affect adversely the rights, preferences, privileges or powers of, or the restrictions provided for the benefit of, the Series A Preferred Stock, including, without limitation, the provisions of Article Tenth;

(ii) authorize or issue, or reclassify any Common Stock into, shares of any Senior Securities or Parity Securities, or issue shares of Senior Securities or Parity Securities or, except for any Permitted Issuance, prior to the seventh anniversary of the Second Effective Time, issue or grant (x) any rights, options or other securities convertible, exercisable or exchangeable for or into, or having rights to purchase, any shares of Senior Securities or Parity Securities or

(y) any stock appreciation, phantom stock rights or other rights having equity or similar features;

(iii) prior to the seventh anniversary of the Second Effective Time, declare or pay any dividends, or make any other distributions, on any shares of capital stock of the Corporation or, except as otherwise expressly provided for under the Stockholders Agreement or as may be provided under the terms of the Management Options, purchase, redeem or otherwise acquire, either directly or through any of its Subsidiaries, (x) any capital stock of the Corporation or any of its Subsidiaries or (y) any Options or Convertible Securities, except that the Corporation may pay the "Put Price" upon the exercise of the "Put" pursuant to the terms of Article 6 of the Warrant Agreement as in effect at the Second Effective Time; or

(iv) enter into any Affiliate Transaction.

(6) Conversion. The holders of Series A Preferred Stock shall have the following conversion rights:

(a) Right to Convert.

(1) Optional Conversion. Subject to the provisions for adjustment hereinafter set forth, each share of Series A Preferred Stock shall be convertible, in whole or in part at any time and from time to time, at the option of the holder thereof (each such conversion, an "Optional Conversion"), into one (1) fully paid and nonassessable share of Class A Common. The number of shares of Common Stock deliverable upon conversion of a share of Series A Preferred Stock, adjusted as hereinafter provided, is referred to herein as the "Series A Conversion Ratio."

(ii) Mandatory Conversion. On the date of consummation of a Qualifying Offering, each share of Series A Preferred Stock shall be automatically converted into fully paid and nonassessable shares of Common Stock at the Series A Conversion Ratio ("Mandatory Conversion").

(b) Mechanics of Conversion. Each holder of Series A Preferred Stock that desires to convert the same into shares of Common Stock shall surrender the certificate or certificates therefor, duly endorsed, at the principal office of the Corporation or of any transfer agent for the Series A Preferred Stock or Common Stock, and, to the extent applicable, shall give written notice to the Corporation at such office, in the case of an Optional Conversion, that such holder elects to convert the same and stating therein the number of shares of Series A Preferred Stock being converted and, with respect to a

Mandatory Conversion or an Optional Conversion, setting forth the name or names in which such holder wishes the certificate or certificates for shares of Common Stock to be issued if such name or names shall be different than that of such holder. In case such notice shall specify a name or names other than that of such holder, such notice shall be accompanied by payment of all transfer Taxes payable upon the issuance and delivery of shares of Common Stock in such name or names. Thereupon, the Corporation shall issue and deliver at such office on the second succeeding Business Day to such holder (i) a certificate or certificates for the number of validly issued, fully paid and nonassessable full shares of Common Stock to which such holder is entitled and (ii) if less than the full number of shares of Series A Preferred Stock evidenced by the surrendered certificate or certificates are being converted, a new certificate or certificates, of like tenor, for the number of shares evidenced by such surrendered certificate or certificates less the number of shares converted. Each conversion shall be deemed to have been effected (x) with respect to Optional Conversions, immediately prior to the close of business on the date of such surrender of the shares to be converted, and (y) with respect to a Mandatory Conversion, immediately prior to the close of business on the date of consummation of the Qualifying Offering, in each case so that the rights of the holder thereof as to the shares being converted shall cease at such time except for the right to receive shares of Common Stock and any dividends declared, accrued and unpaid in accordance herewith, 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 at such time.

(c) Adjustment of Series A Conversion Ratio. If and whenever the Corporation issues or sells, or in accordance with paragraph II(6) (d) is deemed to have issued or sold, any shares of Common Stock (other than pursuant to a Permitted Issuance) for a consideration per share less than the Market Price of Common Stock then in effect, then immediately upon such issuance or sale the Series A Conversion Ratio shall be increased to equal the amount determined by multiplying the Series A Conversion Ratio in effect immediately prior to such issuance or sale by a fraction, the denominator of which will be the sum of (x) the number of shares of Common Stock Deemed Outstanding immediately prior to such issuance or sale multiplied by the Market Price per share of Common Stock determined as of the date of such issuance or sale, plus (y) the consideration, if any, received by the Corporation upon such issuance or sale, and the numerator of which will be the product derived by multiplying such Market Price per share by the number of shares of Common Stock Deemed Outstanding immediately after such issuance or sale. For purposes of this paragraph II(6) (c), the calculation of the number of shares of Common Stock Deemed Outstanding shall exclude

the shares of Common Stock issuable upon conversion of the shares of Series A Preferred Stock.

(d) Effect on Series A Conversion Ratio of Certain Events. For purposes of determining the adjusted Series A Conversion Ratio under paragraph II(6)(c), the following shall be applicable:

(i) Issuance of Rights or Options. If the Corporation in any manner grants any rights or options to subscribe for or to purchase Common Stock or any stock or other securities convertible into or exchangeable for Common Stock (such rights or options being herein called "Options" and such convertible or exchangeable stock or securities being herein called "Convertible Securities") and the price per share for which Common Stock is issuable upon the exercise of such Options or upon conversion or exchange of such Convertible Securities is less than the Market Price then in effect, then the total maximum number of shares of Common Stock issuable upon the exercise of such Options or upon conversion or exchange of the total maximum amount of such Convertible Securities issuable upon the exercise of such Options shall be deemed to be outstanding and to have been issued and sold by the Corporation for such price per share, unless the issuance of such shares of Common Stock upon such exercise, conversion or exchange constitutes a Permitted Issuance. For purposes of this paragraph, the "price per share for which Common Stock is issuable upon exercise of such Options or upon conversion or exchange of such Convertible Securities" is determined by dividing (x) the total amount, if any, received or receivable by the Corporation as consideration for the granting of all such Options, plus the minimum aggregate amount of additional consideration payable to the Corporation upon the exercise of all such Options, plus in the case of such Options which relate to Convertible Securities, the minimum aggregate amount of additional consideration, if any, payable to the Corporation upon the issuance or sale of all such Convertible Securities and the conversion or exchange thereof, by (y) the total maximum number of shares of Common Stock issuable upon exercise of all such Options or upon the conversion or exchange of all such Convertible Securities issuable upon the exercise of such Options. To the extent that an adjustment of the Series A Conversion Ratio shall have been made upon the issuance of such Options or Convertible Securities, a readjustment of the Series A Conversion Ratio shall be made upon the actual issuance of such Common Stock upon the exercise of such Options or upon the actual issuance of such Common Stock upon conversion or exchange of such Convertible Securities, to the extent that, in the case of the foregoing clause (x), the aggregate amount of additional consideration paid to the Corporation upon such exercise, conversion or exchange exceeds the minimum aggregate amount of consideration which was calculated for the purposes of

determining the "price per share for which Common Stock is issuable upon exercise of such Options or upon conversion or exchange of such Convertible Securities" pursuant to the foregoing sentence.

(ii) Issuance of Convertible Securities. If the Corporation in any manner issues or sells any Convertible Securities and the price per share for which Common Stock is issuable upon such conversion or exchange is less than the Market Price then in effect, then the maximum number of shares of Common Stock issuable upon conversion or exchange of such Convertible Securities shall be deemed to be outstanding and to have been issued and sold by the Corporation for such price per share, unless the issuance of such shares of Common Stock upon such exercise, conversion or exchange constitutes a Permitted Issuance. For the purposes of this paragraph, the "price per share for which Common Stock is issuable upon such conversion or exchange" is determined by dividing (x) the total amount received or receivable by the Corporation as consideration for the issuance or sale of all such Convertible Securities, plus the minimum aggregate amount of additional consideration, if any, payable to the Corporation upon the conversion or exchange thereof, by (y) the total maximum number of shares of Common Stock issuable upon the conversion or exchange of all such Convertible Securities. To the extent that an adjustment of the Series A Conversion Ratio shall be made upon the issuance of such Convertible Securities, a readjustment of the Series A Conversion Ratio shall be made upon the actual issuance of such Common Stock upon conversion or exchange of such Convertible Securities, to the extent that, in the case of the foregoing clause (x), the aggregate amount of additional consideration paid to the Corporation upon such conversion or exchange exceeds the minimum aggregate amount of consideration which was calculated for the purposes of determining the "price per share for which Common Stock is issuable upon such conversion or exchange" pursuant to the foregoing sentence.

(iii) Change in Option Price or Series A Conversion Ratio. If the purchase price provided for in any Options, the additional consideration, if any, payable upon the issue, conversion or exchange of any Convertible Securities, or the rate at which any Convertible Securities are convertible into or exchangeable for Common Stock changes at any time, the Series A Conversion Ratio in effect at the time of such change shall be readjusted to the Series A Conversion Ratio which would have been in effect at such time had such Options or Convertible Securities still outstanding provided for such changed purchase price, additional consideration or changed conversion rate, as the case may be, at the time initially granted, issued or sold.

(iv) Treatment of Expired Options and Unexercised Convertible Securities. Upon the expiration of any Option or the termination of any right to convert or exchange any Convertible Securities without the exercise of such Option or right, the Series A Conversion Ratio then in effect shall be adjusted to the Series A Conversion Ratio which would have been in effect at the time of such expiration or termination had such Option or Convertible Securities never been issued.

(v) Calculation of Consideration Received. If any Common Stock, Options or Convertible Securities are issued or sold or deemed to have been issued or sold for cash, the consideration received therefor shall be deemed to be the gross amount payable by the purchaser or purchasers thereof before deducting underwriting discounts, commissions or other expenses of sale. In case any Common Stock, Options or Convertible Securities are issued or sold for a consideration other than cash, the amount of the consideration other than cash received by the Corporation shall be the fair value of such consideration, except where such consideration consists of securities, in which case the amount of consideration received by the Corporation shall be the Market Price thereof as of the date of receipt. In case any Common Stock, Options or Convertible Securities are issued to the owners of the non-surviving entity in connection with any merger in which the Corporation is the surviving entity the amount of consideration therefor shall be deemed to be the fair value of such portion of the net assets and business of the non-surviving entity as is attributable to such Common Stock, Options or Convertible Securities, as the case may be. The fair value of any consideration other than cash or securities shall be determined by the Board of Directors of the Corporation in the good faith exercise of its business judgment; provided, however, that in the event the holders representing a majority of the shares of Series A Preferred Stock then outstanding disagree with such determination and so notify the Corporation in writing, the Corporation shall promptly retain an Independent Investment Bank to determine such fair value, which determination shall be final and binding on the Corporation and the holders of the Series A Preferred Stock.

(vi) Integrated Transactions. In case any Option is issued in connection with the issue or sale of other securities of the Corporation, together comprising one integrated transaction in which no specific consideration is allocated to such Option by the parties thereto, the Option shall be deemed to have been issued for such consideration as shall have been determined by the Board of Directors in the good faith exercise of its business judgment; provided, however, that in the event the holders representing a majority of the shares of Series A Preferred Stock then outstanding disagree with such determination and so notify the Corporation in writing, the Corporation shall

promptly retain an Independent Investment Bank to determine such consideration, which determination shall be final and binding on the Corporation and the holders of the Series A Preferred Stock; provided, further that if the holders representing a majority of the shares of Series A Preferred Stock then outstanding disagree with the determination of the Corporation's Board of Directors and such other securities are debt securities (such debt securities so issued are herein referred to as the "Debt") of the Corporation or any of its Subsidiaries, the Independent Investment Bank shall be instructed that the Option shall be deemed to have been issued for consideration equal to the excess, if any, of (a) the aggregate face amount of debt securities with terms identical to the terms of the Debt (other than the increase to face value described in this proviso) which the Corporation or such Subsidiary would have had to issue had no Option been issued in connection therewith, given the prevailing market conditions at the time of the issuance of the Debt, in order to receive the same aggregate net proceeds as is actually received from the issuance of the Debt, over (b) the aggregate face amount of the Debt. If the Independent Investment Bank is unable to render a written opinion as contemplated herein to the holders of the Series A Preferred Stock, the consideration for such Option shall be deemed to be zero.

(e) Adjustment for Stock Splits and Combinations.

If the Corporation at any time or from time to time after the Issue Date effects a subdivision of the outstanding Common Stock or combines the outstanding shares of Common Stock, then, in each such case, the Series A Conversion Ratio in effect immediately prior to such event shall be adjusted so that each holder of shares of Series A Preferred Stock shall have the right to convert its shares of Series A Preferred Stock into the number of shares of Common Stock which it would have owned after the event had such shares of Series A Preferred Stock been converted immediately before the happening of such event. Any adjustment under this paragraph II(6)(e) shall become effective as of the date and time the subdivision or combination becomes effective.

(f) Reorganization, Reclassification,

Consolidation, Merger or Sale. Any recapitalization, reorganization, reclassification, consolidation, merger, sale of all or substantially all of the Corporation's assets to another Person or other transaction which is effected in such a way that holders of Common Stock are entitled to receive (either directly or upon subsequent liquidation) stock, securities or assets with respect to or in exchange for Common Stock is referred to herein as an "Organic Change." Prior to the consummation of any Organic Change, the Corporation shall make appropriate provision (in form and substance reasonably satisfactory to holders of Series A Preferred Stock representing a majority of the Series A Preferred Stock then outstanding) to insure that each of the holders of the

Series A Preferred Stock shall thereafter have the right to acquire and receive in lieu of or in addition to (as the case may be) the shares of Class A Common immediately theretofore acquirable and receivable upon the conversion of such holder's Series A Preferred Stock, such shares of stock, securities or assets as may be issuable or payable with respect to or in exchange for the number of shares of Common Stock immediately theretofore acquirable and receivable upon conversion of such holder's Series A Preferred Stock had such Organic Change not taken place. In any such case, the Corporation shall make appropriate provision (in form and substance reasonably satisfactory to the holders of Series A Preferred Stock representing a majority of the Series A Preferred Stock then outstanding) with respect to such holders' rights and interest to insure that the provisions hereof shall thereafter be applicable to the Series A Preferred Stock (including, in the case of any such consolidation, merger or sale in which the successor entity or purchasing entity is other than the Corporation, an immediate adjustment of the Series A Conversion Ratio to reflect the value for the Series A Preferred Stock reflected by the terms of such consolidation, merger or sale, if the value so reflected would cause an increase to the Series A Conversion Ratio in effect immediately prior to such consolidation, merger or sale). The Corporation shall not effect any such consolidation, merger or sale, unless prior to the consummation thereof, the successor entity (if other than the Corporation) resulting from such consolidation or merger or the corporation purchasing such assets assumes by written instrument (which may be the agreement of consolidation, merger or sale) (in form and substance reasonably satisfactory to the holders of Series A Preferred Stock representing a majority of the Series A Preferred Stock then outstanding), the obligation to deliver to each such holder such shares of stock, securities or assets as, in accordance with the foregoing provisions, such holder may be entitled to acquire.

Notwithstanding the foregoing, the provisions of this paragraph II (6) (f) shall not apply to any Organic Change which is also a Change of Control.

(g) Certain Events. If, at any time or from time to time after the Issue Date, any event occurs of the type contemplated by the provisions of paragraph II(6) but not expressly provided for by such provisions (including, without limitation, the granting of stock appreciation rights, phantom stock rights or other rights having equity or similar features but excluding any Permitted Issuance), then the Corporation's Board of Directors shall make an appropriate adjustment in the Series A Conversion Ratio so as to protect the rights of the holders of Series A Preferred Stock; provided that no such adjustment shall decrease the Series A Preferred Conversion Ratio obtainable as otherwise determined pursuant to paragraph II(6).

(h) No Impairment. The Corporation will not, by amendment of this Restated Certificate 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 the Corporation.

(i) No Fractional Shares Adjustments. No fractional shares shall be issued upon conversion of the Series A Preferred Stock. If more than one share of the Series A Preferred Stock is to be converted at one time by the same stockholder, the number of full shares issuable upon such conversion shall be computed on the basis of the aggregate amount of the shares to be converted. Instead of any fractional shares of Common Stock which would otherwise be issuable upon conversion of any shares of Series A Preferred Stock the Corporation will pay a cash adjustment in respect of such fractional interest in an amount equal to the same fraction of the Market Price per share of Common Stock at the close of business on the day of conversion which such fractional share of Series A Preferred Stock would be convertible into on such date.

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

(k) Shares to be Reserved. The Corporation shall at all times reserve and keep available, out of its authorized and unissued stock, solely for the purpose of effecting the conversion of the Series A Preferred Stock, such number of shares of Class A Common as shall from time to time be sufficient to effect the conversion of all of the Series A Preferred Stock from time to time outstanding. The Corporation shall from time to time, in accordance with the laws of the State of Delaware, increase the authorized number of shares of Class A Common if at any time the number of shares of Class A Common not then outstanding shall be insufficient to permit the conversion in full of the Series A Preferred Stock.

(l) Taxes and Charges. The Corporation will pay any and all issue or other Taxes that may be payable in respect of any issuance or delivery of shares of Common Stock on

conversion of the Series A Preferred Stock. The Corporation shall not, however, be required to pay any Tax which may be payable in respect of any transfer involved in the issuance or delivery of Common Stock in a name other than that of the Series A Preferred Stock, and no such issuance or delivery shall be made unless and until the Person requesting such issuance has paid to the Corporation the amount of such Tax or has established, to the satisfaction of the Corporation, that such Tax has been paid.

(m) Actions to Maintain Conversion Price Above Par Price. Before taking any action which would cause an adjustment in the Series A Conversion Ratio such that, upon conversion of the Series A Preferred Stock, shares of Common Stock would be deemed to be issued below the then par value of the Common Stock, the Corporation will take any corporate action which may, in the opinion of its counsel, be reasonably necessary in order that the Corporation may validly and legally issue fully paid and non-assessable shares of Common Stock at the Series A Conversion Ratio as so adjusted.

(n) Certificate of Adjustment. In any case of an adjustment or readjustment of the number of shares of Common Stock or other securities issuable upon conversion of the Series A Preferred Stock, the chief financial officer or the president of the Corporation shall compute such adjustment or readjustment in accordance with the provisions hereof and prepare and sign a certificate showing such adjustment or readjustment, and shall mail such certificate, by first class mail, postage prepaid, to each holder of Series A Preferred Stock at the holder's address as shown in the Corporation'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 number of shares of Common Stock and the type and amount, if any, of other property which at the time would be received upon conversion of such holder's shares.

(o) Notices of Record Date. In the event of (i) any taking by the 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 or other distribution, or (ii) any Organic Change or voluntary or involuntary dissolution, liquidation or winding up of the Corporation, the Corporation shall mail to each holder of Series A Preferred Stock not less than 30 days and not more than 60 days prior to the date on which the books of the Corporation shall close, the record date specified therein or the effective date thereof, as the case may be, a notice specifying (i) the material terms and conditions of the proposed action, (ii) 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, (iii) the date on which any such Organic Change,

dissolution, liquidation or winding up is expected to become effective, and (iv) the time, 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 Organic Change, dissolution, liquidation or winding up.

(p) Notices. Any notice required by the provisions of this paragraph II(6) shall be in writing and shall be deemed given upon delivery, if delivered personally, or by a recognized commercial courier with receipt acknowledged, or upon the expiration of 72 hours after the same has been deposited in the United States mail, by certified or registered mail, return receipt requested, postage prepaid, and addressed to each holder of record at its address appearing on the books of the Corporation.

(q) Accrued Dividends. Upon conversion of any shares of Series A Preferred Stock, the holder thereof shall be entitled to receive any declared, accrued and unpaid dividends in respect of the shares of Series A Preferred Stock so converted to the date of such conversion.

(r) Closing of Books. The Corporation will at no time close its transfer books against the transfer of any shares of Series A Preferred Stock or of any shares of Common Stock issued or issuable upon the conversion of any shares of Series Preferred Stock in any manner which interferes with the timely conversion of such shares of Series A Preferred Stock.

(s) Status of Converted Stock. In the event any shares of Series A Preferred Stock shall be converted pursuant to paragraph II(6) hereof, the shares so converted shall be canceled and shall not be issuable by the Corporation, and the Certificate of Incorporation of the Corporation shall then be appropriately amended to effect the corresponding reduction in the Corporation's authorized capital stock.

(7) Definitions. For purposes of this paragraph II of Article Fourth, the following terms shall have the respective meanings set forth below:

"Affiliate" shall mean, with respect to any Person, any other Person directly or indirectly controlling (including but not limited to all directors and officers of such Person), controlled by, or under direct or indirect common control with such Person. For purposes of this definition, "controlling" (including with its correlative meanings, the terms "controlled by" and "under common control with") as used with respect to any Person shall mean the

possession, directly or indirectly, of the power (i) to vote or direct the vote of 10% or more of the securities having ordinary voting power for the election of directors of such corporation or (ii) to direct or cause the direction of the management and policies of such corporation, whether through the ownership of securities, by contract or otherwise.

"Affiliate Transaction" means any transaction or series of transactions or agreement, arrangement or understanding between (i) the Corporation or any of its Subsidiaries, and (ii) Mr. Carl Weiss, Mr. Thomas Cleary, Mr. Roger Wachtell, Alpine Equity Partners, Inc., or any of them, or any Affiliate or relative of any one or more of the foregoing (and shall include for purposes of this definition, any Person as to which any one or more of the foregoing Persons have the power to vote or direct the vote of an aggregate of 10% or more of the securities having ordinary voting power of such Person), except for (i) the performance, in accordance with their respective terms, as in effect as of the Second Effective Time of (w) the Stockholders Agreement dated as of December 7, 1994 by and among the Corporation, RRI, Mr. Carl Weiss, Mr. Thomas Cleary and Mr. Roger Wachtell, (x) the Registration Rights Agreement dated as of December 7, 1994 by and among the Corporation, RRI, Mr. Carl Weiss, Mr. Thomas Cleary and Mr. Roger Wachtell, (y) the employment agreements dated as of December 7, 1994 between the Corporation and each of Mr. Carl Weiss, Mr. Thomas Cleary and Mr. Roger Wachtell, and (z) the consulting agreement dated as of December 7, 1994 between the Corporation and Alpine Equity Partners, Inc.; provided, however, that any amendment, supplement or waiver of any of the foregoing agreements shall be deemed an "Affiliate Transaction" for purposes hereof and (ii) the grant of any Management Options to any of the foregoing and their purchase of Class A Common Stock upon exercise thereof.

"Business Day" shall mean any day that is not a Saturday, a Sunday or a day on which banks are required or permitted to be closed in the state of California.

"Change of Control" has the meaning ascribed thereto in the Stockholders Agreement.

"Common Stock" means, collectively, the Class A Common and the Class B Common and all other securities of any class or classes (however designated) of the Corporation (other than the Series A Preferred Stock) the holders of which have the right, without limitation

as to amount, after payment on any securities entitled to a preference on dividends or other distributions upon any dissolution, liquidation or winding up, either to all or to a share of the balance of payments upon such dissolution, liquidation or winding up; provided that if there is a change such that the securities issuable upon conversion of the Series A Preferred Stock are issued by an entity other than the Corporation or there is a change in the class of securities so issuable, then the term "Common Stock" shall mean one share of the security issuable upon conversion of the Series A Preferred Stock if such security is issuable in shares, or shall mean the smallest unit in which such security is issuable if such security is not issuable in shares.

"Common Stock Deemed Outstanding" means, at any given time, the number of shares of Common Stock actually outstanding at such time, plus the number of shares of Common Stock deemed to be outstanding pursuant to paragraph II(6) hereof.

"Convertible Securities" shall have the meaning set forth in paragraph II(6)(d)(i).

"Fully Diluted Basis" means, with respect to the calculation of the number of shares of Common Stock, as of each date of determination thereof, (i) all shares of Common Stock outstanding at the time of determination, and (ii) all shares of Common Stock issuable upon the exchange, exercise or conversion of any security or other right then outstanding which is exchangeable, exercisable or convertible for or into Common Stock, including, without limitation, the Series A Preferred Stock and the Warrant Agreement.

"Independent Investment Bank" means any of the following investment banks or valuation firms: Merrill Lynch & Co., Goldman, Sachs & Co., Lehman Brothers, Morgan Stanley & Co., Smith Barney, Harris Upham & Co. Incorporated, PaineWebber Incorporated, Lazard Freres & Co. Incorporated, Bear Stearns & Co. Inc., Donaldson, Lufkin & Jenrette, Salomon Brothers Inc, J.P. Morgan Securities Inc., BT Securities, Alex Brown & Sons, Montgomery Securities, Dillon, Read & Co. Inc., Dean Witter Reynolds Inc., William Blair & Co., The First Boston Corporation, A.G. Edwards & Sons, Inc., Oppenheimer & Co., Inc., Prudential Securities Incorporated, Robertson Stephens & Company, Wertheim Schroder & Co. Incorporated, Jeffries & Company, Inc., Meserow Financial, Inc., Wedbush Morgan Securities,

Grief & Co., Crowell, Weedon & Co., or any other investment bank or valuation firm chosen by the Corporation and consented to by the holders of a majority of shares of Series A Preferred Stock then outstanding, which consent shall not be unreasonably withheld, in each case, the costs and fees of which shall be borne by the Corporation and the opinion of which shall be addressed to the holders of the Series A Preferred Stock and may include other addressees.

"Initial Preferred Directors" shall have the meaning set forth in paragraph II(5)(c).

"Issue Date" means, as to any share of Series A Preferred Stock, the date of original issuance thereof by the Corporation.

"Junior Securities" shall have the meaning set forth in paragraph II(2).

"Management Options" means any Options, stock appreciation or other rights having equity or similar features issued to employees of the Corporation or any of its subsidiaries pursuant to the Option Plans, which are exercisable for not more than 6,500 shares of Class A Common (or its economic equivalent), subject to appropriate adjustment for stock-splits, reclassifications, recapitalization and similar events and which have reasonable and customary repurchase provisions; provided, however, that no such Options, stock appreciation or other rights issued to Thomas Cleary, Roger B. Wachtell, Carl Weiss or any of their respective Affiliates shall be deemed "Management Options" unless (i) the maximum number of Options issuable under the Option Plans at any one time outstanding had previously been issued to employees of the Corporation and then lapsed prior to exercise or repurchased by the Corporation pursuant to such Option Plans upon the termination of employment of any such employee, and (ii) they are issued to such Persons at the then current Market Price.

"Mandatory Conversion" shall have the meaning set forth in paragraph II(6)(a).

"Market Price" means, as to any security, the average of the closing prices of such security's sales on all domestic securities exchanges on which such security may at the time be listed, or, if there have been no sales on any such exchange on any day, the average of the highest bid and lowest asked prices on

all such exchanges at the end of such day, or, if on any day such security is not so listed, the average of the representative bid and asked prices quoted on the Nasdaq National Market as of 4:00 P.M., New York time, on such day, or, if on any day such security is not quoted on the Nasdaq National Market, the average of the highest bid and lowest asked prices on such day in the domestic over-the-counter market as reported by the National Quotation Bureau, Incorporated, or any similar successor organization, in each such case averaged over a period of 21 days consisting of the day as of which "Market Price" is being determined and the 20 consecutive Business Days prior to such day; provided that if such security is listed on any domestic securities exchange the term "Business Days" as used in this sentence means business days on which such exchange is open for trading. If at any time such security is not listed on any domestic securities exchange or quoted on the Nasdaq National Market or the domestic over-the-counter market, the "Market Price" shall be the fair value thereof as determined in good faith by the Board of Directors of the Corporation (determined without giving effect to any discount for minority interest, any restrictions on transferability or any lack of liquidity of the Common Stock or to the fact that the Corporation has no class of equity registered under the Exchange Act), such fair value to be determined by reference to the cash price that would be paid between a fully informed buyer and seller under no compulsion to buy or sell; provided, however, (i) in the event that holders of Series A Preferred Stock representing a majority of the Series A Preferred Stock then outstanding disagree with the Board of Directors' determination of the fair value or (ii) if such fair value is being determined in connection with an issuance of securities solely to one or more Affiliates of the Corporation, then in each such case if so required by such holders of Series A Preferred Stock, such fair value shall be determined by an Independent Investment Bank and the determination of such Independent Investment Bank shall be final and binding on the Corporation and the holders of the Series A Preferred Stock; provided, further, however, that with respect to any issuance or sale in any transaction or series of related transactions of shares of Common Stock totalling less than 1% of the Common Stock then outstanding on a Fully Diluted Basis the fair value thereof shall be determined in good faith by the Board of Directors of the Corporation.

"Material Subsidiary" means any Subsidiary whose assets, at the time of determination thereof, represent at least 25% of the fair market value of the assets of the Corporation and all of its Subsidiaries taken together.

"Option Plans" means the Amended and Restated Incentive and Non-Qualified Stock Option Plan of the Corporation as in effect at the Second Effective Time.

"Organic Change" shall have the meaning set forth in paragraph II(6)(f).

"Optional Conversion" shall have the meaning set forth in paragraph II(6)(a).

"Options" shall have the meaning set forth in paragraph II(6)(d)(i).

"Parity Securities" shall have the meaning set forth in paragraph II(2).

"Permitted Issuance" means the issuance by the Corporation of (A) shares of Common Stock (i) upon conversion of the Series A Preferred Stock (ii) in connection with any dividend or distribution to the holders of Common Stock declared and made in accordance with paragraph II(3) hereof (iii) upon exercise of the Management Options or (iv) pursuant to the Warrant Agreement, or (B) the Management Options.

"Person" shall mean an individual, partnership, corporation, trust, unincorporated organization, joint venture, government or agency, political subdivision thereof, or any other entity of any kind.

"Preferred Directors" shall have the meaning set forth in paragraph II(5)(c).

"Qualifying Offering" shall mean the consummation of an offering and sale to the public of Common Stock in a widespread public distribution pursuant to an effective registration statement filed under the Securities Act of 1933, as amended, in which the aggregate offering price is at least \$10 million and at the conclusion of which (i) the aggregate number of shares of Common Stock that have been sold to the public pursuant to such registration statement and that remain outstanding equals at least 20% of the total number of shares of Common Stock, calculated on a Fully Diluted Basis, outstanding after such offering, (ii)

the Common Stock is listed on the New York Stock Exchange, American Stock Exchange or the Nasdaq National Market and (iii) an active trading market for the Common Stock exists.

"REI" means Recover Equity Investors, L.P., a Delaware limited partnership.

"Second Effective Time" has the meaning ascribed thereto in the Agreement and Plan of Merger dated as of December 7, 1994 by and among G&H Technology, Inc., a Delaware corporation, G&H 1994, Inc., a Delaware corporation, and REI.

"Senior Securities" means any class or series of capital stock of the Corporation other than Parity Securities or Junior Securities.

"Series A Conversion Ratio" shall have the meaning set forth in paragraph II(6)(a).

"Series A Default" means any of the following events: (i) a violation by the Corporation or any of its Material Subsidiaries of any of the provisions of this Restated Certificate of Incorporation, (ii) a default by the Corporation in the due performance or observance of any terms, covenants or agreements contained in Section 3.3 and Article IV of the Stockholders Agreement, or (iii) the Corporation or any of its Material Subsidiaries shall commence a voluntary case under the Federal bankruptcy laws or any other applicable Federal or state bankruptcy, insolvency or similar law; or an involuntary case is commenced against the Corporation or any of its Material Subsidiaries and the petition is not controverted within 10 days, or is not dismissed within 60 days, after commencement of the case; or the Corporation or any such Material Subsidiary shall consent to the entry of an order for relief in an involuntary case or to the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator (or other similar official) of the Corporation or any such Material Subsidiary or of any substantial part of their respective properties; or the Corporation or any of its Material Subsidiaries makes an assignment for the benefit of its creditors, or admits in writing its inability to pay its debts generally as they become due, or a decree or order for relief in respect of the Corporation or any of its Material Subsidiaries shall be entered by a court having jurisdiction in the premises in an involuntary case under the Federal

bankruptcy laws or any other applicable Federal or state bankruptcy, insolvency or similar law, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or other similar official) of the Corporation or any such Material Subsidiary or of any substantial part of their respective properties, or ordering the winding up or liquidation of their respective affairs; provided, however, that any violation by the Corporation of (1) Article Fourth, paragraph I; (2) the last sentence of Article Fourth, paragraph II (5) (a); (3) Article Fourth, paragraph II (6) (b), (f), (g), (i), (k), (l), (n), (o) or (p); (4) Article Fourth, paragraph III; (5) the proviso in Article Fourth, paragraph II (6) (d) (v) or (vi) which requires the Corporation to "promptly" hire an Independent Investment Bank; (6) Section 4.1(d) of the Stockholders Agreement; or (7) the failure to provide timely notices pursuant to Section 3.3 of the Stockholders Agreement shall not be deemed a Series A Default if none of the holders of Series A Preferred Stock are adversely affected thereby and, if curable, such violation is cured within 30 days of the Corporation's discovery thereof.

"Series A Liquidation Preference" shall have the meaning set forth in paragraph II(4) (a).

"Series A Preferred Stock" shall have the meaning set forth in paragraph II(1).

"Stated Value" means \$215.38462 per share with respect to the Series A Preferred Stock.

"Stockholders Agreement" means the Stockholders Agreement, dated as of December 7, 1994, among the Corporation, Recovery Equity Investors, L.P., Thomas Cleary, Roger Wachtell and Carl Weiss, as such agreement may be amended, supplemented, modified or restated from time to time.

"Subsidiary" means, with respect to the Corporation, any corporation of which an aggregate of 50% or more of the outstanding capital stock having ordinary voting power to elect a majority of the board of directors of such corporation (irrespective of whether, at the time, capital stock of any other class or classes of such corporation shall have or might have voting power by reason of the happening of any contingency) is at the time, directly or indirectly, owned by the Corporation and/or one or more Subsidiaries of the Corporation.

"Tax" or "Taxes" means all Federal, state, local or foreign net or gross income, gross receipts, net proceeds, sales, use, ad valorem, value added, franchise, bank shares, withholding, payroll, employment, excise, sales, use, property, alternative or add-on minimum, environmental or other taxes, assessments, duties, fees, levies or other governmental charges of any nature whatever, whether disputed or not, together with any interest, penalties, additions to tax or additional amounts with respect thereto.

"Warrant Agreement" means the Warrant Agreement by and between the Corporation and Creditanstalt-Bankverein, a bank organized under the laws of the Republic of Austria, dated as of December 7, 1994 as in effect at the Second Effective Time.

(8) Exclusion of Other Rights: Termination of Certain Rights.

(a) Except as may otherwise be required by law, the shares of a Series A Preferred Stock shall not have any preferences or relative, participating, optional or other rights, other than those specifically set forth in this Restated Certificate of Incorporation and the Stockholders Agreement.

(b) In the event and at such time that less than 10% of the shares of Series A Preferred Stock outstanding at the Second Effective Time shall remain outstanding (subject to appropriate adjustments for any stock-splits, recapitalizations, reclassifications, reorganizations, or similar events) the holders of the Series A Preferred Stock shall cease to be entitled to (x) the rights set forth in paragraphs II(5)(b), II(5)(c) and II(5)(d) (ii), (iii) and (iv) and (y) the right to require the retention of an Independent Investment Bank to determine "Market Price" with respect to the issuance of any securities or to determine the fair value of any consideration pursuant to paragraphs II (6)(d)(v) and II (6)(d)(vi).

III. ALL CLASSES OF CAPITAL STOCK

(1) Registration of Transfer. The Corporation will keep at its principal office (or such other place as the Corporation reasonably designates) a register for the registration of transfer of shares of capital stock. Upon the surrender of any certificate representing shares of any class of capital stock at such place, the

Corporation will, at the request of the registered holder of such certificate, execute and deliver a new certificate or certificates in exchange therefor representing in the aggregate the number of shares of such class represented by the surrendered certificate, and the Corporation forthwith will cancel such surrendered certificate. Each such new certificate will be registered in such name and will represent such number of shares of such class as is requested by the holder of the surrendered certificate and will be substantially identical in form to the surrendered certificate. The issuance of new certificates will be made without charge to the holders of the surrendered certificates for any issuance tax in respect thereof or other cost incurred by the Corporation in connection with such issuance.

(2) Replacement. Upon receipt of evidence reasonably satisfactory to the Corporation (an affidavit of the registered holder will be satisfactory) of the ownership and the loss, theft, destruction or mutilation of any certificate evidencing one or more shares of any class of capital stock, and in the case of any such loss, theft or destruction, upon receipt of the indemnity reasonably satisfactory to the Corporation (provided that if the holder is a financial institution or other institutional investor its own agreement will be satisfactory), or, in the case of any such mutilation upon surrender of such certificate, the Corporation will (at its expense) execute and deliver in lieu of such certificate a new certificate of like kind representing the number of shares of such class represented by such lost, stolen, destroyed or mutilated certificate and dated the date of such lost, stolen, destroyed or mutilated certificate.

(3) Notices. All notices referred to herein shall be in writing, shall be delivered personally or by first class mail, postage prepaid, and shall be deemed to have been given when received by the Corporation at its principal executive offices and to any stockholder at such holder's address as it appears in the stock records of the Corporation (unless otherwise specified in a written notice to the Corporation by such holder).

FIFTH: The Corporation shall be entitled to treat the Person in whose name any shares of its capital stock are registered as the owner thereof for all purposes and shall not be bound to recognize any equitable or other claim to, or interest in, such shares on the part of any other person, whether or not the Corporation shall have notice thereof, except as expressly provided by applicable law.

No vote at any meeting of stockholders need be by written ballot unless the By-Laws so provide.

SIXTH: The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors. Subject to the provisions of this Restated Certificate of Incorporation, the number of directors of the Corporation shall be as from time to time fixed by, or in the manner provided in, the By-Laws of the Corporation.

SEVENTH: Subject to the provisions of this Restated Certificate of Incorporation, in furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized to adopt, alter, amend and repeal the By-Laws of the Corporation.

EIGHTH: No director of this corporation shall be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of the law, (iii) under Section 174 of the General Corporation Law of Delaware, or (iv) for any transaction from which the director derived an improper personal benefit. No repeal or modification of this Eighth Article by the stockholders shall adversely affect any right or protection of a director of the Corporation existing by virtue of this Article Eighth at the time of such repeal or modification.

NINTH: Meetings of stockholders may be held within or without the State of Delaware, as the By-Laws of the Corporation may provide. The books of the Corporation may be kept (subject to any provision contained in applicable law) outside the State of Delaware at such place as may be designated from time to time by the Board of Directors or in the By-Laws of the Corporation.

TENTH: Whenever any action is proposed to be taken by stockholders without a meeting, the stockholders proposing to take such action shall provide prior written notice of such action, at least seven days prior to the taking of such action, to the holders, if any, of the Series A Preferred Stock then outstanding.

PATENT LISTING: G & H 1994, INC. TO G & H TECHNOLOGY, INC.

Inventors	Appln./Patent Number	Description	Filing Date	Date Issued
Burns, Edgar (Los Angeles, CA); Johnson, James W. (No. Hollywood, CA); Kimbrough, Adele R. (Los Angeles, CA)	4,530,559	Locking Means for a Plug & Receptacle	10/31/83	7/23/85
Baur, Robert (Los Angeles, CA); Iversen, Ralph T. (Granada Hills, CA); Stephenson, Roger C. (Woodland Hills, CA)	4,531,798	Heavy Duty Electrical Connector	3/29/82	7/30/85
Baur, Robert (Los Angeles, CA)	4,531,801	Plug & Receptacle Locking Means	2/08/84	7/30/85
Burns, Edgar A. (Los Angeles, CA); Johnson, James W. (North Hollywood, CA)	4,547,032	Locking Means for a Plug & Receptacle	8/03/84	10/15/85
Balyasny, Marik (Van Nuys, CA); Parker, Douglas A. (Lomita, CA)	4,567,650	Fiber Optic Crimping Tool	4/09/84	2/04/86
Burns, Edgar (Los Angeles, CA)	4,597,621	Resettable Emergency Release Mechanism	2/08/85	7/01/86
Stephenson, Roger C. (Woodland Hills, CA)	4,598,969	Termination Means	12/12/84	7/08/86
Burns, Edgar (Los Angeles, CA)	4,603,934	Face Seal Pressure Apparatus for Electrical Connector	4/15/85	8/05/86
Burns, Edgar (Los Angeles, CA)	4,605,271	Remote Quick Disconnect for Breech-Lok	3/11/85	8/12/86
Balyasny, Marik (7358 Ruffner Ave., Van Nuys, CA 91406)	4,674,666	Apparatus For Cleaving an Optical Fiber	4/10/86	6/23/87
Hager, Jeffrey J. (Port Hueneme, CA)	4,702,543	Environmental Seal & Alignment Means for an Electro-magnetically Formed Backshell	4/30/86	10/27/87
Van Brunt, Michael K. (9754 Big Horn, Ventura, CA 93004); Hager, Jeffrey J. (555 Rosewood, #205, Camarillo, CA 93010)	4,705,915	Cable Shield Termination Means	6/24/85	11/10/87
McCormick, Larry L. (Los Angeles, CA)	4,717,351	Redundant Electrical Connector Release	8/15/86	1/05/88
Hager, Jeffrey J. (Port Hueneme, CA); Foy, Arthur (Ben Lomand, CA)	4,726,782	Anti-Decoupling Device for an Electrical Connector	1/05/87	2/23/88
Balyasny, Marik (Van Nuys, CA)	4,799,759	Fiber Optic Connector (Fiber Optic Terminus)	6/26/86	1/24/89
Benze, Everett L.	4,898,543	Self-Aligning	4/03/89	2/06/90

Inventors	Appl./Patent Number	Description	Filing Date	Date Issued
(Inglewood, CA)		Electrical Connector		
Dutcher, Clinton H. (Camarillo, CA)	4,925,404	Environmentally Protected EMI Shielded Connector	12/18/89	5/15/90
Kerek, Leslie (Los Angeles, CA)	5,140,661	Optical Fiber Connector	8/06/91	8/18/92
Hager, Jeffrey J. (Camarillo, CA)	5,145,394	Anti-Rotation Assembly for Interconnect Devices	10/03/91	9/08/92
Rudoy, Edward (Woodland Hills, CA); Kerek, Leslie (Los Angeles, CA)	5,221,171	Non-Explosive Separation Nut	10/15/92	6/22/93
Chaput, Dale T. (Yorba Linda, CA); Edwards, Michael P. (Long Beach, CA); Swain, Steven D. (Hawthorne, CA)	5,282,709	Separation Nut with a Restraining Wire	5/04/93	2/01/94
Rudoy, Edward (Woodland Hills, CA); Kerek, Leslie (Los Angeles, CA)	5,312,147	Electromechanical High Load Separation Apparatus with Smooth Release	8/09/93	5/17/94
Kerek, Leslie (Los Angeles, CA); Rudoy, Edward (Woodland Hills, CA)	5,383,790	Connector with Zero Impulse Separation Mechanism (Floating, Self-Alignment & Zero Impulse Separation Mechanism)	11/19/93	1/24/95
Rudoy, Edward (Woodland Hills, CA); Kerek, Leslie (Los Angeles, CA)	5,438,173	Battery "Cell Bypass Switch"	1/27/94	8/01/95
McCormick, Larry L. (Camarillo, CA)	5,471,888	Shaft "Motion Initiation"	4/12/94	12/05/95
Bielinski, Slawomir J. (Camarillo, CA); McCormick, Larry L. (Camarillo, CA); Stephenson, Roger C. (Woodland Hills, CA)	5,606,889	Reusable Non-Explosive Initiator (Spool) (Reusable Initiator for Use in Triggering High Load Actuators)	9/19/95	3/04/97
McCormick, Larry L. (Camarillo, CA)	5,621,373	Non-Explosive Initiator Cartridge (Non-Explosive Initiator with Link Wire Assembly)	8/14/95	4/15/97
Holt, Andrew J. (Camarillo, CA)	5,748,066	Redundant Linkwire Cartridge (Motion Initiator with Replaceable Link Wire Controller)	9/09/96	5/05/98
Chaput, Dale (Yorba Linda, CA); Hughes, Tom (Ventura, CA)	5,752,296	Frangible Tensile Bar (Secondary Release Apparatus)	4/05/96	5/19/98

Inventors	Appln./Patent Number	Description	Filing Date	Date Issued
McCormick, Larry L. (Camarillo, CA)	5,752,847	Electrical Quick Disconnect (Close Tolerance Quick Disconnect Electrical Connector)	7/08/96	5/19/98
Parker, Douglas (Camarillo, CA)	5,930,427	Fiber Optic Termini for Space Station (Fiber Optics Connector)	1/20/98	7/27/99
Wu, Jui-Yu (750 W. Ventura Blvd., Camarillo, CA 93010); Dalton, Matthew B. (750 W. Ventura Blvd., Camarillo, CA 93010)	6,093,896	System for Providing a Conductive Path Around a Damaged Battery Cell (Battery Cell Bypass Switch)	4/05/99	7/25/00
Ayers, James E. (Newbury Park, CA); Sedighi, Shohreh (Valencia, CA); Kisch, John D. (Ventura, CA); Hernandez, Jr., David J. (Camarillo, CA)	6,193,535	Connector Assy w/Extreme Temperature Protective Ceramic Deadface	2/10/00	2/27/01