

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
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NATURE OF CONVEYANCE:	CHANGE OF NAME
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CONVEYING PARTY DATA

Name	Formerly	Execution Date	Entity Type
TACODA SYSTEMS, INC.		02/23/2006	CORPORATION: DELAWARE

RECEIVING PARTY DATA

Name:	TACODA, INC.
Street Address:	345 SEVENTH AVENUE
Internal Address:	8TH FLOOR
City:	NEW YORK
State/Country:	NEW YORK
Postal Code:	10001
Entity Type:	CORPORATION: DELAWARE

PROPERTY NUMBERS Total: 10

Property Type	Number	Word Mark
Serial Number:	78548026	AUDIENCE NETWORKS
Serial Number:	78522412	CUSTOMERS LIKE THIS
Serial Number:	78522407	AUDIENCE LIKE THIS
Serial Number:	78522406	PEOPLE LIKE THIS
Serial Number:	76618116	AUDIENCE LIFETIME VALUE
Serial Number:	76608297	AUDIENCE MARKET
Registration Number:	3024834	THE BEHAVIORAL TARGETING NETWORK
Registration Number:	3012318	THE AUDIENCE MANAGEMENT COMPANY
Registration Number:	2785690	TACODA
Registration Number:	3100224	THE AUDIENCE COMPANY

CORRESPONDENCE DATA

Fax Number: (202)342-8451
 Correspondence will be sent via US Mail when the fax attempt is unsuccessful.

CH \$265.00 78548026

Phone: 2023428851
Email: skalamaras@kelleydrye.com
Correspondent Name: NANCY H. LUTZ
Address Line 1: 3050 K STREET, NW
Address Line 2: KELLEY DRYE & WARREN LLP
Address Line 4: WASHINGTON, DISTRICT OF COLUMBIA 20007

NAME OF SUBMITTER:	NANCY H. LUTZ
Signature:	/nancy h. lutz/
Date:	10/18/2006

Total Attachments: 23

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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 IS A TRUE AND CORRECT COPY OF THE RESTATED CERTIFICATE OF "TACODA SYSTEMS, INC.", CHANGING ITS NAME FROM "TACODA SYSTEMS, INC." TO "TACODA, INC.", FILED IN THIS OFFICE ON THE TWENTY-THIRD DAY OF FEBRUARY, A.D. 2006, AT 2:39 O'CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.



3367217 8100

060173662

Harriet Smith Windsor

Harriet Smith Windsor, Secretary of State

AUTHENTICATION: 4544311

DATE: 02-23-06

TRADEMARK
REEL: 003411 FRAME: 0198

**FOURTH AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF
TACODA SYSTEMS, INC.**

**(Pursuant to Section 242 and 245 of the
General Corporation Law of the State of Delaware)**

Tacoda Systems, Inc., a corporation organized and existing under and by virtue of the provisions of the General Corporation Law of the State of Delaware (the "General Corporation Law"),

DOES HEREBY CERTIFY:

FIRST: That the name of this corporation is Tacoda Systems, Inc. and that this corporation was originally incorporated pursuant to the General Corporation Law on March 12, 2001 under the name AudienceBox Corporation.

SECOND: That the Board of Directors duly adopted resolutions proposing to amend and restate the Certificate of Incorporation of this corporation, declaring said amendment and restatement to be advisable and in the best interests of this corporation and its stockholders, and authorizing the appropriate officers of this corporation to solicit the consent of the stockholders therefor, which resolution setting forth the proposed amendment and restatement is as follows:

RESOLVED, that the Certificate of Incorporation of this corporation be amended and restated in its entirety as follows:

ARTICLE I

The name of the corporation is TACODA, Inc. (the "Corporation").

ARTICLE II

The address of the Corporation's registered office in the State of Delaware is Corporation Trust Center, 1209 Orange Street Wilmington, New Castle County, Delaware 19801, and the name of the Corporation's registered agent at such address is The Corporation Trust Company.

ARTICLE III

The purposes for which the Corporation is formed are to engage in any lawful act or activity for which corporations may now or hereafter be organized under the General Corporation Law of Delaware and to possess and exercise all of the powers and privileges granted by such law and any other law of Delaware.

ARTICLE IV

Stock

A. Classes of Stock. The Corporation is authorized to issue two classes of capital stock to be designated, respectively, "Common Stock" and "Preferred Stock", each of which shall have a par value of \$.01 per share. The total number of shares which the Corporation is authorized to issue is 72,463,965 of which (i) 45,000,000 shares shall be designated as Common Stock and (ii) 27,463,965 shares shall be designated as Preferred Stock, 7,032,492 shares of which shall be designated as Series A Convertible Preferred Stock ("Series A Preferred Stock"), 9,400,730 shares of which shall be designated as Series B Convertible Preferred Stock ("Series B Preferred Stock") and 11,030,743 shares of which shall be designated as Series C Convertible Preferred Stock ("Series C Preferred Stock").

B. Rights, Preferences and Privileges and Qualifications, Limitations and Restrictions of Capital Stock. The rights, preferences and privileges and qualifications, limitations and restrictions granted to and imposed on the capital stock of the Corporation shall be as set forth below in this Article IV. References hereinafter made to Sections shall mean the Sections contained in this Article IV(B).

1. Definitions. As used herein, the following terms shall have the following definitions:
 - (a) "Accruing Dividends" shall have the meaning set forth in Section 2(a) hereof.
 - (b) "Additional Stock" shall have the meaning set forth in Section 4(c)(ii) hereof.
 - (c) "Bylaws" shall mean the Bylaws of the Corporation, as the same may be amended and restated from time to time.
 - (d) "Common Stock" shall have the meaning set forth in Article IV(A) hereof.
 - (e) "Common Stock Equivalents" shall mean all Convertible Securities and Options that are outstanding at the time in question.
 - (f) "Common Stock Equivalents Outstanding" shall mean the number of shares of Common Stock that is the sum of: (i) all shares of Common Stock that, at the time in question, are then outstanding, plus (ii) all shares of Common Stock issuable upon the conversion in full of all Preferred Stock and other Convertible Securities that are then outstanding, plus (iii) all shares of Common Stock that are issuable upon the exercise in full of all Options that are then outstanding (assuming the full conversion of any Convertible Securities issuable upon exercise of any of such Options that are Options to purchase Convertible Securities).

- (g) "Conversion Rights" shall have the meaning set forth in Section 4 hereof.
- (h) "Convertible Securities" shall mean any indebtedness or shares of stock convertible into or exchangeable for Common Stock.
- (i) "Corporation" shall have the meaning set forth in Article I hereof.
- (j) "Date of Issuance" shall mean the date on which the Corporation initially issued any share of Series A Preferred Stock, Series B Preferred Stock or Series C Preferred Stock, as applicable, regardless of the number of times transfer of such share is made on the stock records maintained by or for the Corporation and regardless of the number of certificates which may be issued to evidence such share (whether by reason of transfer of such share or for any other reason).
- (k) "Effective Price" of shares of Additional Stock shall mean the quotient determined by dividing (i) the total number of such shares of Additional Stock issued or sold, or deemed to have been issued or sold, by the Corporation under Section 4 hereof, into (ii) the consideration received by the Corporation under Section 4 hereof for the issuance of such shares of Additional Stock.
- (l) "Election Notice" shall have the meaning set forth in Section 8(a).
- (m) "Excluded Securities" shall have the meaning set forth in Section 4(c)(ii) hereof.
- (n) "Initial Redemption Date" shall have the meaning set forth in Section 8(a) hereof.
- (o) "Initial Redemption Election Date" shall have the meaning set forth in Section 8(a) hereof
- (p) "Liquidation Event" shall have the meaning set forth in Section 3 hereof.
- (q) "Options" shall mean options or warrants to subscribe for, purchase or otherwise acquire Common Stock or Convertible Securities.
- (r) "Preferred Stock" shall have the meaning set forth in Article IV(A) hereof.
- (s) "OPO" shall have the meaning set forth in Section 4(a)(iv) hereof.
- (t) "Redemption Date" shall have the meaning set forth in Section 8(a) hereof.
- (u) "Redemption Election Notice" shall have the meaning set forth in Section 8(c) hereof.

- (v) "Redemption Price" shall have the meaning set forth in Section 8(b) hereof.
- (w) "Securities Act" shall have the meaning set forth in Section 4(a)(iv) hereof.
- (x) "Series A Conversion Rate" shall have the meaning set forth in Section 4(a)(i) hereof.
- (y) "Series A Conversion Price" shall have the meaning set forth in Section 4(a)(i) hereof.
- (z) "Series A Liquidation Preference" shall mean, as to each share of Series A Preferred Stock, the Series A Original Issue Price, plus all Accruing Dividends unpaid thereon (whether or not declared), if any, as adjusted for stock splits, reverse stock splits and similar type transactions or occurrences with respect to the Series A Preferred Stock.
- (aa) "Series A Original Issue Price" shall mean \$0.60 per share of Series A Preferred Stock, appropriately adjusted for stock splits, reverse stock splits and similar type transactions or occurrences with respect to the Series A Preferred Stock.
- (bb) "Series A Preferred Stock" shall have the meaning set forth in Article IV(A) hereof.
- (cc) "Series B Conversion Rate" shall have the meaning set forth in Section 4(a)(ii) hereof.
- (dd) "Series B Conversion Price" shall have the meaning set forth in Section 4(a)(ii) hereof.
- (ee) "Section B Liquidation Preference" shall mean, as to each share of Series B Preferred Stock, the Series B Original Issue Price, plus all Accruing Dividends unpaid thereon (whether or not declared), if any, as adjusted for stock splits, reverse stock splits and similar type transactions or occurrences with respect to the Series B Preferred Stock.
- (ff) "Series B Original Issue Price" shall mean \$1.069066 per share of Series B Preferred Stock, appropriately adjusted for stock splits, reverse stock splits and similar type transactions or occurrences with respect to the Series B Preferred Stock.
- (gg) "Series B Preferred Stock" shall have the meaning set forth in Article IV(A) hereof.
- (hh) "Series C Conversion Rate" shall have the meaning set forth in Section 4(a)(iii) hereof.
- (ii) "Series C Conversion Price" shall have the meaning set forth in Section 4(a)(iii) hereof.

(jj) "Series C Liquidation Preference" shall mean, as to each share of Series C Preferred Stock, the Series C Original Issue Price, plus all Accruing Dividends unpaid thereon (whether or not declared), if any, as adjusted for stock splits, reverse stock splits and similar type transactions or occurrences with respect to the Series C Preferred Stock.

(kk) "Series C Original Issue Price" shall mean \$1.106 per share of Series C Preferred Stock, appropriately adjusted for stock splits, reverse stock splits and similar type transactions or occurrences with respect to the Series C Preferred Stock.

(ll) "Series C Preferred Stock" shall have the meaning set forth in Article IV(A) hereof.

2. Dividend Provisions

(a) Preferred Stock. The holder of each share of Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors, out of any assets of the Corporation legally available therefor, such dividends as may be declared from time to time by the Board of Directors. The holders of the shares of Preferred Stock shall be entitled to receive, out of funds legally available therefor, when, as and if declared by the Board of Directors, dividends at the rate of eight percent (8%) of the Series A Original Issue Price, Series B Original Issue Price or Series C Original Issue Price per share, as applicable (as adjusted for any stock dividends, combinations, stock splits and similar type transactions or occurrences, if any, with respect to such shares) per annum (the "Accruing Dividends"). The Accruing Dividends shall accrue from day to day and shall be calculated from the Date of Issuance of each share of Preferred Stock, as applicable. The Accruing Dividends shall accrue, whether or not earned or declared, and shall be cumulative. The Accruing Dividends shall be paid: (i) when, as and if declared by the Board of Directors; (ii) upon a Liquidation Event as provided in Section 3 below; (iii) upon conversion of the Preferred Stock as provided in Section 4 below; or (iv) upon a redemption of the Preferred Stock as provided in Section 8 below.

(b) Common Stock. The Corporation shall not declare or pay any dividend or set aside a sum sufficient for such payment in respect of the shares of the Common Stock while any share of Preferred Stock is outstanding (i) until any Accruing Dividends shall have been paid or declared and set apart as set forth in Section 2(a) and (ii) without complying with Section 7(a) hereof. In any such event, the holders of shares of Preferred Stock shall participate with holders of shares of Common Stock on a pro rata basis, based on the number of shares of Common Stock held by each (assuming conversion of all such shares of Preferred Stock into Common Stock on the terms set forth herein), in the receipt of such dividends when, as and if declared by the Board of Directors (other than a dividend payable in Common Stock or other securities or rights convertible into or entitling the holder thereof to receive, directly or indirectly, additional shares of Common Stock).

3. Liquidation Preference

(a) Priority. In the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary (as expanded below in Section 3(b)(i), a

"Liquidation Event"), the assets of the Corporation legally available for distribution to its stockholders shall be distributed in the following order of priority:

(i) The holders of shares of Series C Preferred Stock shall be entitled to receive, prior and in preference to any distribution in such Liquidation Event of any of the assets of the Corporation to the holders of shares of Series B Preferred Stock, Series A Preferred Stock and Common Stock, their Series C Liquidation Preference for each outstanding share of Series C Preferred Stock then held by them. If upon the occurrence of any such distribution, the assets of the Corporation thus distributed among the holders of shares of Series C Preferred Stock shall be insufficient to permit the payment to such holders of the full aforesaid Series C Liquidation Preference to which they are entitled, then the entire assets of the Corporation legally available for distribution shall be distributed on a pro rata basis among the holders of shares of Series C Preferred Stock (in proportion to the number of shares of Series C Preferred Stock held by each such holder).

(ii) After the distribution described in Section 3(a)(i) hereof has been made, the holders of shares of Series B Preferred Stock shall be entitled to receive, prior and in preference to any distribution in such Liquidation Event of any of the assets of the Corporation to the holders of shares of Series A Preferred Stock and Common Stock, their Series B Liquidation Preference for each outstanding share of Series B Preferred Stock then held by them. If upon the occurrence of any such distribution, the assets of the Corporation thus distributed among the holders of shares of Series B Preferred Stock shall be insufficient to permit the payment to such holders of the full aforesaid Series B Liquidation Preference to which they are entitled, then the entire assets of the Corporation legally available for distribution shall be distributed on a pro rata basis among the holders of shares of Series B Preferred Stock (in proportion to the number of shares of Series B Preferred Stock held by each such holder).

(iii) After the distributions described in Section 3(a)(i) and (ii) hereof have been made, the holders of shares of Series A Preferred Stock shall be entitled to receive, prior and in preference to any distribution in such Liquidation Event of any of the assets of the Corporation to the holders of shares of Common Stock, their Series A Liquidation Preference for each outstanding share of Series A Preferred Stock then held by them. If upon the occurrence of any such distribution, the assets of the Corporation thus distributed among the holders of shares of Series A Preferred Stock shall be insufficient to permit the payment to such holders of the full aforesaid Series A Liquidation Preference to which they are entitled, then the entire assets of the Corporation legally available for distribution shall be distributed on a pro rata basis among the holders of shares of Series A Preferred Stock (in proportion to the number of shares of Series A Preferred Stock held by each such holder).

(iv) After the distributions described in Section 3(a)(i), (ii) and (iii) hereof have been made, then any remaining assets of the Corporation available for distribution to stockholders shall be distributed among the holders of shares of Preferred Stock and Common Stock on a pro rata basis based on the number of shares of Common Stock held by each (in the case of the Preferred Stock, based upon the number of shares of Common Stock into which each share of Preferred Stock is then convertible).

(b) Consolidation, Merger, Etc.

(i) For purposes of this Section 3, a "Liquidation Event" shall be deemed to be occasioned by, or to include, the following events (unless the holders of at least 65% of the shares of Preferred Stock in the aggregate then outstanding, voting together as a single class, based on the number of shares of Preferred Stock then outstanding, elect to not have these events so deemed):

(A) the acquisition of the Corporation by another entity by means of any transaction or series of related transactions, including without limitation, a consolidation or merger of the Corporation with or into any other corporation or corporations, unless the Corporation's stockholders of record as constituted immediately prior to such acquisition hold at least 50% of the voting power of the surviving or acquiring entity, or

(B) the sale, lease, transfer, exclusive license or other disposition, in a single transaction or series of related transactions, by the Corporation or any subsidiary of the Corporation of all or substantially all the assets of the Corporation and its subsidiaries taken as a whole, or the sale or disposition (whether by merger or otherwise) of one or more subsidiaries of the Corporation if all or substantially all of the assets of the Corporation and its subsidiaries taken as a whole are held by such subsidiary or subsidiaries, except where such sale, lease, transfer, exclusive license or other disposition is to a wholly owned subsidiary of the Corporation;

provided, however, that an equity financing in which the Corporation is the surviving corporation shall not be deemed a "Liquidation Event".

(ii) Any securities to be delivered to the stockholders pursuant to such events shall be valued as follows:

(A) If traded on a securities exchange or a national interdealer quotation system such as NASDAQ, the value shall be deemed to be the average of the closing prices of the securities on such exchange over the 30-day period ending three (3) days prior to the closing;

(B) If actively traded over-the-counter, the value shall be deemed to be the average of the closing bid prices over the 30-day period ending three (3) days prior to the closing; and

(C) 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.

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

(a) Right to Convert.

(i) Subject to Section 4(a)(iv) hereof, each share of Series A Preferred Stock shall be convertible, at the option of the holder thereof, at any time after the Date

of Issuance of such share, at the office of the Corporation or any transfer agent for the Series A Preferred Stock, into such number of fully paid and nonassessable shares of Common Stock (the "Series A Conversion Rate") as is determined by dividing the Series A Original Issue Price plus the Accruing Dividends unpaid on such share of Series A Preferred Stock (whether or not declared) by the applicable conversion price (the "Series A Conversion Price") for the Series A Preferred Stock at the time in effect. The initial Series A Conversion Price per share for shares of Series A Preferred Stock shall be the Series A Original Issue Price for such shares; provided, however, that the Series A Conversion Price shall be subject to adjustment as set forth in Section 4(c) hereof

(ii) Subject to Section 4(a)(iv) hereof, each share of 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 the Corporation or any transfer agent for the Series B Preferred Stock, into such number of fully paid and nonassessable shares of Common Stock (the "Series B Conversion Rate") as is determined by dividing the Series B Original Issue Price plus the Accruing Dividends unpaid on such share of Series B Preferred Stock (whether or not declared) by the applicable conversion price (the "Series B Conversion Price") for the Series B Preferred Stock at the time in effect. The initial Series B Conversion Price per share for shares of Series B Preferred Stock shall be the Series B Original Issue Price for such shares; provided, however, that the Series B Conversion Price shall be subject to adjustment as set forth in Section 4(c) hereof.

(iii) Subject to Section 4(a)(iv) hereof, each share of Series C 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 the Corporation or any transfer agent for the Series C Preferred Stock, into such number of fully paid and nonassessable shares of Common Stock (the "Series C Conversion Rate") as is determined by dividing the Series C Original Issue Price plus the Accruing Dividends unpaid on such share of Series C Preferred Stock (whether or not declared) by the applicable conversion price (the "Series C Conversion Price") for the Series C Preferred Stock at the time in effect. The initial Series C Conversion Price per share for shares of Series C Preferred Stock shall be the Series C Original Issue Price for such shares; provided, however, that the Series C Conversion Price shall be subject to adjustment as set forth in Section 4(c) hereof.

(iv) Each share of Preferred Stock shall automatically be converted into fully paid and nonassessable shares of Common Stock at the Series A Conversion Rate, Series B Conversion Rate or Series C Conversion Rate in effect for the Series A Preferred Stock, Series B Preferred Stock or Series C Preferred Stock, as applicable, upon the earlier to occur of (a) immediately prior to the closing of the first sale by the Corporation of shares of its Common Stock in a firmly underwritten public offering registered under the Securities Act of 1933, as amended (the "Securities Act"), managed by a nationally-recognized underwriter, with an aggregate minimum net offering price to the public of \$30,000,000, at a per share price equal to no less than \$5.00 (appropriately adjusted for stock splits, reverse stock splits and similar type transactions or occurrences, if any) (a "QPO"); or (B) the date specified by vote or written consent of the holders of at least 65% of the shares of Preferred Stock in the aggregate then outstanding, voting together as a single class, based on the number of shares of Preferred Stock then outstanding.

(b) Mechanics of Conversion. Before any holder of shares of Preferred Stock shall be entitled to convert any of such shares into shares of Common Stock, such holder shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Corporation or of any transfer agent for the office of the Corporation or of any transfer agent for the Preferred Stock, and shall give written notice by mail, postage prepaid, to the 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. The Corporation shall, as soon as practicable thereafter, issue and deliver at such office to such holders of shares of Preferred Stock, or to the nominee or nominees of such holders, 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 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 the QPO, the conversion may, at the option of any holder tendering Preferred Stock for conversion, be conditioned upon the closing with the underwriter of the sale of securities pursuant to such offering, in which event the person(s) entitled to receive Common Stock issuable upon the conversion of the Preferred Stock shall not be deemed to have converted the Preferred Stock until immediately prior to the closing of such sale of securities. If the conversion is in connection with the automatic conversion provisions of subsection 4(a)(iv)(B) above, such conversion shall be deemed to have been made on the conversion date described in the stockholder consent approving such conversion, and the persons entitled to receive shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holders of such shares of Common Stock as of such date.

(c) Conversion Price Adjustments of the Preferred Stock. The Series A Conversion Price, Series B Conversion Price or Series C Conversion Price, as applicable, shall be subject to adjustment from time to time as follows:

(i) (A) Upon each issuance (or deemed issuance pursuant to the provisions hereof) by the Corporation of any Additional Stock after the applicable Date of Issuance, without consideration or for an Effective Price per share less than the Series A Conversion Price, Series B Conversion Price or Series C Conversion Price, as applicable, in effect immediately prior to the issuance (or deemed issuance) of such Additional Stock, then the Series A Conversion Price, Series B Conversion Price or Series C Conversion Price, as applicable, in effect immediately prior to each issuance (or deemed issuance) shall be adjusted to a price determined by multiplying such Series A Conversion Price, Series B Conversion Price or Series C Conversion Price, as applicable, by a fraction, (1) the numerator of which shall be the number of Common Stock Equivalents Outstanding immediately prior to such issuance plus the number of shares of Common Stock which the aggregate consideration received (or deemed received) by the Corporation for such issuance would purchase at such Series A Conversion Price, Series B Conversion Price or Series C Conversion Price, as applicable; and (2) the denominator of which shall be the number of Common Stock Equivalents Outstanding immediately after such issuance.

(B) No adjustment of the Series A Conversion Price, Series B Conversion Price or Series C Conversion Price, as applicable, shall be made in an amount less than one-half of one cent (\$0.005) 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 taken into account in any subsequent adjustment to the Series A Conversion Price, Series B Conversion Price or Series C Conversion Price, as applicable

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

(D) In the case of the issuance of securities of the Corporation for a consideration in whole or in part other than cash, the consideration other than cash shall be deemed to have a dollar value equal to the fair market value of such non-cash consideration as determined in good faith by the Board of Directors, irrespective of any accounting treatment thereof.

(E) In the case of the issuance (whether before, on or after the applicable Date of Issuance) of Options or Convertible Securities, the following provisions shall apply for all purposes of this Section 4(c)(i) and Section 4(c)(ii) hereof:

(1) With respect to Options to purchase Common Stock, the aggregate maximum number of shares of Common Stock deliverable upon exercise of such Options shall be deemed to have been issued at the time such Options were issued and for a consideration equal to the consideration (determined in the manner provided in Section 4(c)(i)(C) and Section 4(c)(i)(D) hereof), if any, received by the Corporation for such Options plus the minimum exercise price provided in such Options for Common Stock covered thereby.

(2) With respect to Convertible Securities and Options to purchase Convertible Securities, the aggregate maximum number of shares of Common Stock deliverable upon the conversion or exchange of any such Convertible Securities and the aggregate maximum number of share of Common Stock issuable upon the exercise of such Options to purchase Convertible Securities and the subsequent conversion or exchange of such Convertible Securities shall be deemed to have been issued at the time such Convertible Securities or such Options were issued and for a consideration equal to the consideration, if any, received by the Corporation for any such Convertible Securities and Options, plus the minimum additional consideration, if any, to be received by the Corporation upon the conversion or exchange of such Convertible Securities or the exercise of such Options and the conversion or exchange of the Convertible Securities issuable upon exercise of such Options (the consideration in each case to be determined in the manner provided in Section 4(c)(i)(C) and 4(c)(i)(D) hereof).

(3) In the event of any change in the number of shares of Common Stock deliverable, or in the consideration payable to the Corporation, upon

exercise of such Options or upon conversion or exchange of such Convertible Securities, excluding a change resulting from the antidilution provisions thereof, the Series A Conversion Price, Series B Conversion Price or Series C Conversion Price, as applicable, to the extent in anyway affected by or computed using such Options or Convertible 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 the conversion or exchange of such Convertible Securities.

(4) Upon the expiration or termination of any such Options or any such rights to convert or exchange Convertible Securities, the Series A Conversion Price, Series B Conversion Price or Series C Conversion Price, as applicable, to the extent in any way affected by or computed using such Options or Convertible Securities, shall be recomputed to reflect the issuance of only the number of shares of Common Stock (and Options and Convertible Securities which remain in effect) that were actually issued upon the exercise of such Options or upon the conversion or exchange of such Convertible Securities.

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

(ii) "Additional Stock" shall mean any shares of Common Stock issued (or deemed to have been issued pursuant to Section 4(c)(i)(E) hereof) by the Corporation after the applicable Date of Issuance other than the following "Excluded Securities":

(A) Common Stock issued pursuant to a transaction described in Section 4(c)(iii), (d) or (e) hereof;

(B) Common Stock or options or warrants to purchase or rights to subscribe for such Common Stock, or securities by their terms convertible into or exchangeable for such Common Stock, or options or warrants to purchase or rights to subscribe for such convertible or exchangeable securities, in any of the foregoing cases issued to officers, employees or directors of, or consultants to, the Corporation, pursuant to any agreement, plan or arrangement approved by the Board of Directors of the Corporation;

(C) Any Common Stock or Common Stock Equivalents issued, upon the approval of a majority of the Board of Directors in connection with a bona fide business acquisition of or by the Corporation, whether by merger, consolidation, sale of assets, sale or exchange of stock or otherwise;

(D) Any Common Stock or Common Stock Equivalents issued or issuable in connection with real or personal property leases, bank financing or other similar transactions that are primarily of a non-equity financing nature and approved by the Board of Directors;

(E) Any Common Stock or Common Stock Equivalents issued pursuant to an underwritten public offering;

(F) Any Common Stock issued or issuable upon conversion of shares of Preferred Stock or upon the conversion or exercise of other currently outstanding Convertible Securities and Options;

(G) Any Common Stock issued in connection with a strategic corporate partnership or joint venture with a non-affiliate of the Corporation if and to the extent that the transaction in which such issuance is made is primarily of a non-equity financing nature and approved by the Board of Directors; and

(H) Any Common Stock issued or deemed issued pursuant to Section 4(c)(i)(E) or Section 4(l) as a result of a decrease in the Conversion Price of any series of Preferred Stock resulting from the operation of Section 4(c).

(iii) In the event the Corporation at any time or from time to time of the applicable Date of Issuance fixes a record date for the effectuation of a split or subdivision of the outstanding shares of Common Stock or the determination of holders of shares of Common Stock entitled to receive a dividend or other distribution payable in additional shares of Common Stock or Common Stock Equivalents without payment of any consideration by such holder for the additional shares of Common Stock or 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 Series A Conversion Price, Series B Conversion Price or Series C Conversion Price, as applicable, shall be appropriately decreased so that the number of shares of Common Stock issuable on conversion of each share of Series A Preferred Stock, Series B Preferred Stock or Series C Preferred Stock, as applicable, shall be increased in proportion to such increase in the aggregate number of shares issuable with respect to 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 Section 4(c)(i)(E) hereof.

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

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

(e) Recapitalization, etc. If at any time or from time to time there shall be a capital reorganization, reclassification or recapitalization of Common Stock (other than as provided in 4(c)(iii) above and other than a consolidation, merger or sale of assets transaction provided for in Section 3 hereof), provision shall be made so that each holder of shares of Preferred Stock shall thereafter be entitled to receive, upon conversion of the Preferred Stock, the number of shares of stock or other securities or property of the Corporation or otherwise, receivable upon such capital reorganization, reclassification or recapitalization by a holder of the number of shares of Common Stock into which such shares of Preferred Stock could have been converted immediately prior to such capital reorganization, reclassification or recapitalization. In any such case, appropriate adjustment shall be made in the application of the provisions of this Section 4 with respect to the rights of the holders of shares of Preferred Stock after the capital reorganization, reclassification or recapitalization to the end that the provisions of this Section 4 (including adjustments of the Series A Conversion Price, Series B Conversion Price or Series C Conversion Price, as applicable, then in effect and the number of shares purchasable upon conversion of the Series A Preferred Stock, Series B Preferred Stock or Series C Preferred Stock, as applicable) shall be applicable after that event as nearly equivalent as may be practicable.

(f) No Impairment. The Corporation will not, without the appropriate vote of the stockholders under the General Corporation Law or Section 7 hereof, by amendment of this Fourth Amended and Restated Certificate of Incorporation or through any reorganization, recapitalization 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, but will at all times in good faith assist in the carrying out of all the provisions of this Section 4 and in the taking of all such action as may be necessary or appropriate in order to protect the Conversion Rights of the holders of shares of Preferred Stock against impairment.

(g) No Fractional Shares. No fractional shares shall be issued upon conversion of the Preferred Stock, and the number of shares of Common Stock to be issued shall be rounded down to the nearest whole share, and there shall be no payment to a holder of shares of Preferred Stock for any such rounded fractional share. Whether or not fractional shares result from such conversion shall be determined on the basis of the total number of shares of 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.

(h) Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the Series A Conversion Price, Series B Conversion Price or Series C Conversion Price, as applicable, pursuant to this Section 4, the 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 shares of Series A Preferred Stock, Series B Preferred Stock or Series C Preferred Stock, as applicable, a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, upon the written request at any time of any holder of shares of Preferred Stock, furnish or cause to be furnished to such holder a like certificate setting forth (A) such adjustment and readjustment, (B) the Series A Conversion Price, Series B Conversion Price or Series C Conversion Price, as applicable, 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 Series A Preferred Stock, Series B Preferred Stock or Series C Preferred Stock, as applicable.

(i) Notices of Record Date. In the event of 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 (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, the Corporation shall mail to each holder of shares of Preferred Stock, at least twenty (20) 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. The 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 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 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 Preferred Stock, then in addition to such other remedies as shall be available to the holder of such shares of Preferred Stock, the Corporation will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes.

(k) Notices. Any notice required by the provisions of this Section 4 to be given to the holders of shares of Preferred Stock shall be deemed given when received if delivered via courier or sent by facsimile, by telex, or by United States mail, postage prepaid, and addressed to each holder of record at his, her or its address appearing on the books of the Corporation.

(l) Special Series C Conversion Price Adjustment. In the event that, at any time or from time to time within twelve (12) months of the first Date of Issuance of any shares of Series C Preferred Stock, the Corporation reserves or otherwise authorizes the reservation or issuance of any additional shares of Common Stock (the "Additional Reserved Shares") for issuance under any stock option plan or other equity incentive plan, agreement or arrangement for directors, employees and/or consultants of the Company (other than 3,748,445 shares reserved for issuance as of the filing date hereof), then the Series C Conversion Price shall automatically be adjusted, concurrently with any such action, to the price obtained by dividing (i) \$30,000,000 by (ii) the sum of (x) 27,124,849 plus (y) the aggregate number of Additional Reserved Shares.

(m) Waiver of Adjustment to Conversion Price. Notwithstanding anything herein to the contrary, any downward adjustment of the Series A Conversion Price, Series B Conversion Price or Series C Conversion Price may be waived, either prospectively or retroactively and either generally or in a particular instance, by the consent or vote of the holders of a majority of the outstanding shares of the Series A Preferred Stock, the holders of a majority

of the outstanding shares of the Series B Preferred Stock, or the holders of at least 60% of the shares of the Series C Preferred Stock, as applicable, in each case voting separately as a series. Any such waiver shall bind all future holders of shares of such series of Preferred Stock.

5. Status of Converted Stock. In the event any shares of Preferred Stock are converted pursuant to Section 4 hereof, the shares so converted shall be canceled, retired and eliminated and shall not be reissued by the Corporation. This Fourth Amended and Restated Certificate of Incorporation shall be appropriately amended to effect the corresponding reduction in the Corporation's authorized capital stock

6. Voting Rights. Each holder of a share of Preferred Stock shall have the right to one vote for each share of Common Stock into which the Preferred Stock could then be converted (with any fractional share determined on an aggregate conversion basis being rounded down to the nearest whole share). Except as otherwise provided in this Fourth Amended and Restated Certificate of Incorporation or by applicable law, the holders of shares of Preferred Stock shall have full voting rights and powers equal to the voting rights and powers of the holders of shares of Common Stock and shall be entitled to notice of any stockholders' meeting in accordance with the Bylaws of the Corporation and applicable law, and shall vote, together with the holders of shares of Common Stock (and any other class or series of stock entitled to vote together as one class with the Common Stock) with respect to any question upon which holders of shares of Common Stock have the right to vote, as a single class, including without limitation, actions amending this Fourth Amended and Restated Certificate of Incorporation to increase the number of authorized shares of Common Stock.

7. Protective Provisions.

(a) The Corporation shall not, without first obtaining the approval (by vote or written consent, as provided by law) of the holders of at least 65% of the shares of Preferred Stock in the aggregate then outstanding, voting together as a single class, based on the number of shares of Preferred Stock then outstanding:

(i) Creation of New Stock. In any manner authorize, create or issue any additional class or series of capital stock or other obligations or securities convertible into or exchangeable for, or having optional rights to purchase any, securities of the Corporation, (A) ranking as to dividends, the distribution of assets upon the occurrence of a Liquidation Event, or redemption, prior to or on a parity with the Preferred Stock, or (B) having voting rights similar to any of the rights of the Preferred Stock under this Section 7;

(ii) Amendment of Bylaws or Certificate of Incorporation. Amend, alter or repeal any of the provisions of the Bylaws or this Fourth Amended and Restated Certificate of Incorporation if the effect of such amendment, alteration or repeal would adversely affect the shares of Preferred Stock, except for amending this Fourth Amended and Restated Certificate of Incorporation for the sole purpose of increasing the number of shares of authorized Common Stock upon the occurrence of an adjustment to the Series A Conversion Price, Series B Conversion Price or Series C Conversion Price, as applicable, that results in the number of shares of Common Stock issued plus the number of shares of Common Stock issuable (i) upon conversion of all outstanding Convertible Securities of the Corporation and (ii) upon exercise of

all Options issued by the Corporation exceeding the number of shares of Common Stock then authorized by this Fourth Amended and Restated Certificate of Incorporation, but only to the extent of such excess amount;

(iii) Stock Splits, etc. Effect any stock split; stock combination, reclassification or similar event;

(iv) Purchases; Distributions Dividends. Redeem, purchase or set aside any sums for the purchase of, or pay any dividend or make any distribution on, any class of stock, Options or Convertible Securities, except (i) for dividends or other distributions payable on the Common Stock solely in the form of additional shares of Common Stock, (ii) for redemption, purchases, dividends or distributions required or permitted by the terms of this Fourth Amended and Restated Certificate of Incorporation or other contractual obligations of the Corporation and (iii) for the purchase or acquisition by forfeiture of shares of Common Stock from former employees, directors and/or consultants of the Corporation pursuant to agreements under which the Corporation has the option to repurchase such shares upon the occurrence of certain events, such as the termination of employment or service, or pursuant to a right of first refusal;

(v) Liquidation Event. Consummate a Liquidation Event, or merge or consolidate with or into any other corporation, corporations, entity or entities, unless the sole purpose of such merger or consolidation is to change the state of the Corporation's incorporation or to create a holding company that will be owned in substantially the same proportions by the persons who held the Corporation's securities immediately prior to such transaction;

(vi) Certain Changes. Sell, convey or transfer all or substantially all of its assets or voluntarily liquidate or dissolve;

(vii) Change in Business. Make a material change in the nature of the Corporation's business;

(viii) Initial Public Offering. Sell shares of Common Stock in an initial public offering registered under the Securities Act, other than a QPO;

(ix) Option Pool Increase. Reserve or otherwise authorize the reservation or issuance of any additional shares of Common Stock for issuance under any stock option plan or other equity incentive plan, agreement or arrangement for directors, employees and/or consultants of the Company (other than 3,748,445 shares reserved for issuance as of the filing date hereof); or

(x) Adverse Actions. Take any other action by any means, including, without limitation, merger, consolidation or otherwise, that would adversely alter, change or affect the rights, preferences or privileges of the Preferred Stock.

(b) The Corporation shall not (by amendment, merger, consolidation or otherwise), without first obtaining the approval (by vote or written consent, as provided by

law) of the holders of at least 60% of the shares of Series C Preferred Stock in the aggregate then outstanding, voting together as a single class:

(i) increase or decrease (other than by redemption or conversion) the total number of authorized shares of Series C Preferred Stock; or

(ii) alter or change the rights, preferences or privileges of the Series C Preferred Stock so as to adversely affect such series of Preferred Stock.

(c) In addition to the provisions of Section 7(a) and (b), in the event that any amendment, alteration or repeal of this Fourth Amended and Restated Certificate of Incorporation (including by merger, consolidation or otherwise) shall have the effect of altering or changing the powers, preferences or special rights of a series of Preferred Stock so as to affect such series adversely, but shall not so adversely affect the entire class of Preferred Stock, then such amendment, alteration or repeal shall also be approved by the holders of a majority of the shares of the adversely affected series.

(d) The voting rights set forth in this Section 7 shall terminate upon the closing of the QPO.

8. Redemption. The shares of Preferred Stock shall be redeemed as follows:

(a) Optional Redemption. Beginning on December 31, 2011 (the "Initial Redemption Election Date"), the Corporation shall be obligated, if the Corporation receives written notice requesting redemption from the holders of at least 65% of the shares of Preferred Stock in the aggregate then outstanding, voting together as a single class, based on the number of shares of Preferred Stock then outstanding (the "Election Notice"), to redeem from the holders of shares of Preferred Stock, according to the percentages listed below:

<u>Date of Redemption</u>	<u>Percentage of Shares of Preferred Stock then Outstanding to be Redeemed</u>
Initial Redemption Date (defined below)	One-third of all the shares of Preferred Stock outstanding on the Initial Redemption Date
First Anniversary Thereafter	50% of all the shares of Preferred Stock outstanding on such date
Second Anniversary Thereafter	100% of all the shares of Preferred Stock outstanding on such date

All such redemptions shall be made pro rata from the shares held by each holder on the applicable date. The Corporation shall redeem the outstanding shares of Preferred Stock within 45 days of receipt by the Corporation of the Election Notice (the "Initial Redemption Date") and upon the first and second anniversaries thereof (collectively with the Initial Redemption Date, each a "Redemption Date"). Within 20 days of receipt by the Corporation of an Election Notice,

the Corporation shall send to all holders of shares of Preferred Stock on the record books of the Corporation as of the date of receipt of the Election Notice a written notice setting forth the Initial Redemption Date relating thereto, the redemption terms (as set forth below) and stating that such holder has the option to convert such holder's shares of Preferred Stock into shares of Common Stock pursuant to the terms of Section 4 hereof if the Corporation receives notice of such election prior to the Redemption Date.

(b) Redemption Price and Payment. The Preferred Stock to be redeemed on the Redemption Dates shall be redeemed by paying for each share in cash an amount equal to the Series A Original Issue Price, Series B Original Issue Price or Series C Original Issue Price, as applicable, plus, in the case of each share, an amount equal to all Accruing Dividends unpaid thereon (whether or not declared) and any other dividends declared but unpaid thereon, computed to the applicable Redemption Date, all such amounts payable to the Series A Preferred Stock, Series B Preferred Stock or Series C Preferred Stock, as applicable, being referred to collectively as the "Redemption Price." Such payment shall be made in full on the applicable Redemption Date to the holders entitled thereto.

(c) Redemption Mechanics. At least 20 but not more than 30 days prior to the Initial Redemption Election Date, written notice (the "Redemption Election Notice") shall be given by the Corporation by delivery in person, certified or registered mail, return receipt requested, telecopier or telex, to each holder of record (at the close of business on the business day next preceding the day on which the Redemption Election Notice is given) of shares of Preferred Stock notifying such holder of the redemption option of such holders and specifying the Redemption Price, the place where said Redemption Price shall be payable if so requested and the requirement that the holders of at least 65% of the shares of Preferred Stock in the aggregate then outstanding, voting together as a single class, based on the number of shares of Preferred Stock then outstanding, provide written notice to the Corporation requesting redemption. The Redemption Election Notice shall be addressed to each holder at his address as shown by the records of the Corporation. From and after the close of business on a Redemption Date, unless there shall have been a default in the payment of the Redemption Price, all rights of holders of shares of Preferred Stock (except the right to receive the Redemption Price), shall cease with respect to shares to be redeemed, on such Redemption Date, and such shares shall not thereafter be transferred on the books of the Corporation or be deemed to be outstanding for any purpose whatsoever.

(d) Insufficient Funds. If the funds of the Corporation legally available for redemption of shares of Preferred Stock on a Redemption Date are insufficient to redeem the total number of shares of Preferred Stock to be redeemed on such Redemption Date, the holders of shares of Preferred Stock shall share ratably in any funds legally available for redemption of such shares according to the respective amounts which would be payable to them if the full number of shares of Preferred Stock to be redeemed on such Redemption Date were actually redeemed. The shares of Preferred Stock required to be redeemed but not so redeemed shall remain outstanding and entitled to all rights and preferences provided herein. At any time thereafter when additional funds of the Corporation are legally available for the redemption of shares of Preferred Stock, such funds will be used, at the end of the next succeeding fiscal quarter, to redeem the shares of Preferred Stock, or such portion thereof for which funds are then

legally available, on a ratable basis among the holders of Preferred Stock until such time as all the shares of Preferred Stock have been so redeemed.

(e) Redeemed or Otherwise Converted Shares to be Retired. Any shares of Preferred Stock redeemed pursuant to this Section 8 or converted pursuant to Section 4 shall be canceled and shall not under any circumstances be reissued; and the Corporation may from time to time take such appropriate corporate action as may be necessary to reduce accordingly the number of authorized shares of Preferred Stock.

C. Common Stock

1. Dividend Rights. The holders of shares of Common Stock shall be entitled to receive, when, as and if declared by the Board of Directors, out of any assets of the Corporation legally available therefor, such dividends as may be declared from time to time by the Board of Directors, subject to the limitations and participation rights of the Preferred Stock more fully set forth in Section 2 of Article IV(B) hereof.

2. Liquidation Rights. Upon the liquidation, dissolution or winding up of the Corporation, the assets of the Corporation shall be distributed as provided in Section 3 of Article IV(B) hereof.

3. Redemption. The Common Stock is not redeemable.

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 meeting in accordance with the Bylaws of the Corporation, and shall be entitled to vote upon such matters and in such manner as may be provided by law, except as otherwise provided in Sections 6 and 7 of Article IV(B) hereof. Notwithstanding Section 242(b)(2) of the Delaware General Corporation Law and except as otherwise provided in this Fourth Amended and Restated Certificate of Incorporation, the number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority of the shares of stock of the Corporation entitled to vote irrespective of Section 242(b)(2) of the Delaware General Corporation Law.

ARTICLE V

Directors

The number of directors of the Corporation shall be determined in the manner set forth in the Bylaws of the Corporation.

ARTICLE VI

Election of Directors

Elections of directors need not be by written ballot unless the Bylaws shall so provide.

ARTICLE VII

Liability Limitation

The directors of the Corporation shall be entitled to the benefits of all limitations on the liability of directors generally that are now or hereafter become available under the Delaware General Corporation Law. Without limiting the generality of the foregoing, no director of the Corporation shall be 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 law, (iii) under Section 174 of the Delaware General Corporation Law, or (iv) for any transaction from which the director derived an improper personal benefit. Any repeal or modification of Article VII shall be prospective only, and shall not affect, to the detriment of any director, any limitation on the personal liability of a director of the Corporation existing at the time of such repeal or modification.

ARTICLE VIII

Amendments

The Corporation reserves the right at any time, and from time to time, to amend, alter, change or repeal any provision contained in this Fourth Amended and Restated Certificate of Incorporation as the same may from time to time be in effect, in the manner now or hereafter prescribed by law, and all rights conferred upon stockholders or any other persons herein are granted subject to the rights reserved in this Article.

ARTICLE IX

Indemnification

The Corporation is authorized to provide indemnification of corporate agents through Bylaw provisions, agreements with the agents, vote of stockholders or disinterested directors, or otherwise, subject only to the applicable limits set forth in Delaware law.

ARTICLE X

Bylaws

The Board of Directors is authorized to adopt, amend or repeal the Bylaws of the Corporation, subject to the provisions of Section 7 of Article IV(B) hereof.

ARTICLE XI

General

Meetings of stockholders may be held within or without the State of Delaware, as the Bylaws of the Corporation may provide. The books of the Corporation may be kept (subject to

any provision contained in the statutes) outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the Bylaws of the Corporation.

* * * * *

THIRD: The foregoing amendment and restatement was approved by the holders of the requisite number of shares of said corporation in accordance with Section 228 or the General Corporation Law.

FOURTH: That said Fourth Amended and Restated Certificate of Incorporation, which restates and integrates and further amends the provisions of the Corporation's Third Amended and Restated Certificate of Incorporation, as amended, has been duly adopted in accordance with Sections 242 and 245 of the General Corporation Law.

(Remainder of page intentionally left blank)

IN WITNESS WHEREOF, this Fourth Amended and Restated Certificate of Incorporation has been executed by a duly authorized officer of the Corporation on this 23rd day of February, 2006.

/s/ Dave Morgan
Dave Morgan
Chief Executive Officer

GDSVF&HV62084.6

RECORDED: 10/18/2006

TRADEMARK
REEL: 003411 FRAME: 0220