

**TRADEMARK ASSIGNMENT**

Electronic Version v1.1  
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	CHANGE OF NAME

**CONVEYING PARTY DATA**

Name	Formerly	Execution Date	Entity Type
Buzz Media		01/20/2010	CORPORATION: CALIFORNIA

**RECEIVING PARTY DATA**

Name:	BUZZMEDIA
Street Address:	6464 West Sunset Blvd., SUITE 650
City:	Los Angeles
State/Country:	CALIFORNIA
Postal Code:	90028
Entity Type:	CORPORATION: CALIFORNIA

**PROPERTY NUMBERS Total: 12**

Property Type	Number	Word Mark
Serial Number:	77771453	THE SUPERFICIAL
Serial Number:	77593623	BUZZMEDIA
Registration Number:	3724829	CELEBUZZ
Registration Number:	3721335	CELEBUZZ
Serial Number:	77771448	THE SUPERFICIAL
Serial Number:	77860899	WHAT WOULD TYLER DURDEN DO?
Serial Number:	77860895	WWTDD
Registration Number:	3388375	BUZZNET
Registration Number:	3388374	BUZZNET
Registration Number:	3376848	STEREOGUM
Registration Number:	3376847	STEREOGUM.COM
Registration Number:	3376846	STEREOGUM.COM

**CORRESPONDENCE DATA**

**900152987**

**TRADEMARK  
 REEL: 004137 FRAME: 0146**

**CH \$315.00 77771453**

Fax Number: (650)938-5200  
*Correspondence will be sent via US Mail when the fax attempt is unsuccessful.*  
Phone: (650) 988-8500  
Email: trademarks@fenwick.com  
Correspondent Name: Hoang-chi Truong  
Address Line 1: 801 California Street  
Address Line 2: Silicon Valley Center  
Address Line 4: Mountain View, CALIFORNIA 94041

ATTORNEY DOCKET NUMBER:	24630-00070
NAME OF SUBMITTER:	Hoang-chi Truong
Signature:	/hoangchitruong/
Date:	01/25/2010

Total Attachments: 18  
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State of California  
Secretary of State



I, DEBRA BOWEN, Secretary of State of the State of California, hereby certify:

That the attached transcript of 17 page(s) is a full, true and correct copy of the original record in the custody of this office.

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

JAN 21 2010



*Debra Bowen*

DEBRA BOWEN  
Secretary of State

## BUZZ MEDIA

## AMENDED AND RESTATED ARTICLES OF INCORPORATION

ENDORSED - FILED  
in the office of the Secretary of State  
of the State of California


JAN 20 2010

The undersigned certify that:

1. They are the President and Secretary, respectively, of Buzz Media, a California corporation.
2. The Articles of Incorporation of this corporation, as amended to the date of the filing of this certificate, including amendments set forth herein but not separately filed (and with the omissions required by Section 910 of the California Corporations Code), are restated in their entirety as set forth in Exhibit "1" attached hereto and made a part hereof by this reference.
3. The Amended and Restated Articles of Incorporation set forth herein have been duly approved by the Board of Directors.
4. The amendments to the Articles of Incorporation included in the Amended and Restated Articles of Incorporation set forth herein (other than omissions required by Section 910 of the Corporations Code) have been duly approved by the required vote of the shareholders of the corporation in accordance with Sections 902 and 903 of the California Corporations Code. The corporation has two classes of stock, and the total number of outstanding shares of the Corporation is thirty-seven million one hundred sixty-two thousand three hundred twenty-six (37,162,326) shares of Common Stock and one hundred eight million three hundred twenty-seven thousand eight hundred twenty-six (108,327,826) shares of Preferred Stock, ten million five hundred thousand (10,500,000) of which are classified as Series A Preferred Stock, twenty-two million seven hundred thirteen thousand one hundred seventy (22,713,170) of which are classified as Series B Preferred Stock, thirty million five hundred eighty-four thousand seven hundred eleven (30,584,711) of which are classified as Series C Preferred Stock and forty-four million five hundred twenty-nine thousand nine hundred forty-five (44,529,945) of which are classified as Series D Preferred Stock. The number of shares voting in favor of the Amended and Restated Articles of Incorporation set forth herein equaled or exceeded the vote required. The percentage vote required was more than fifty percent (50%) of the outstanding shares of Common Stock, more than fifty percent (50%) of the outstanding shares of Preferred Stock, more than two-thirds (2/3rds) of the Series D Preferred Stock and more than fifty percent (50%) of the outstanding shares, voting on as converted to common stock basis.

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

Dated: January<sup>20</sup>, 2010

  
\_\_\_\_\_  
Alan Citron, President  
\_\_\_\_\_  
David Barry, Secretary

**BUZZ MEDIA**

**AMENDED AND RESTATED ARTICLES OF INCORPORATION**


The undersigned certify that:

1. They are the President and Secretary, respectively, of Buzz Media, a California corporation.
2. The Articles of Incorporation of this corporation, as amended to the date of the filing of this certificate, including amendments set forth herein but not separately filed (and with the omissions required by Section 910 of the California Corporations Code), are restated in their entirety as set forth in Exhibit "1" attached hereto and made a part hereof by this reference.
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We further declare under penalty of perjury under the laws of the State of California that the matters set forth in this certificate are true and correct of our own knowledge.

Dated: January <sup>20</sup>, 2010

\_\_\_\_\_  
Alan Citron, President

  
\_\_\_\_\_  
David Barry, Secretary

## EXHIBIT "1"

### AMENDED AND RESTATED ARTICLES OF INCORPORATION

#### BUZZ MEDIA

##### ARTICLE I

The name of the corporation is BUZZMEDIA.

##### ARTICLE II

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 California other than the banking business, the trust company business or the practice of a profession permitted to be incorporated by the California Corporations Code.

##### ARTICLE III

The liability of the directors of the corporation for monetary damages shall be eliminated to the fullest extent permissible under California law. Unless applicable law otherwise provides, any amendment, repeal or modification of this Article III shall not adversely affect any right or protection of a director under this Article III that existed at or prior to the time of such amendment, repeal or modification.

##### ARTICLE IV

The corporation is authorized to provide indemnification of agents (as defined in Section 317 of the California Corporations Code) through bylaw provisions, by agreements with agents, vote of shareholders or disinterested directors or otherwise, in excess of the indemnification otherwise permitted by Section 317 of the California Corporations Code, subject only to the applicable limits on such excess indemnification set forth in Section 204 of the California Corporations Code. Unless applicable law otherwise requires, any amendment, repeal or modification of any provision of this Article IV shall not adversely affect any contract or other right to indemnification of any agent of the corporation that existed at or prior to the time of such amendment, repeal or modification.

##### ARTICLE V

1. **Authorization of Shares.** This corporation is authorized to issue two (2) classes of shares, designated "Common Stock" and "Preferred Stock," respectively, both of which shall have no par value per share. The total number of shares of Common Stock authorized to be issued is three hundred million (300,000,000) shares. The total number of shares of Preferred Stock authorized to be issued is one hundred sixty-four million nine hundred thirty-nine thousand eight hundred sixteen (164,939,816) shares, ten million five hundred thousand (10,500,000) shares of which are designated as "Series A Preferred Stock," twenty-two million nine hundred twelve thousand seven hundred ninety (22,912,790) shares of which are designated as "Series B Preferred Stock," thirty-six million nine hundred eighteen thousand three hundred eleven (36,918,311) shares of which are designated as "Series C Preferred Stock," forty-four million eight hundred twenty-six thousand five hundred twelve (44,826,512) shares of which are designated as "Series D Preferred Stock," and forty-nine million seven hundred eight-two thousand two hundred three (49,782,203) of which are designated as "Series E Preferred Stock."

TRADEMARK

REEL: 004137 FRAME: 0151

## ARTICLE VI

The rights, preferences, privileges and restrictions granted to and imposed on the Preferred Stock and the Common Stock are as follows:

1. **Definitions.** For purposes of this Article VI, the following definitions apply:

1.1 “*Board*” shall mean the Board of Directors of the Corporation.

1.2 “*Corporation*” shall mean this corporation.

1.3 “*Common Stock*” shall mean the Common Stock, no par value, of the Corporation.

1.4 “*Common Stock Dividend*” shall mean a stock dividend declared and paid on the Common Stock that is payable in shares of Common Stock.

1.5 “*Dividend Rate*” shall mean \$0.008 per share per annum for the Series A Preferred Stock, \$0.021 per share per annum for the Series B Preferred Stock, \$0.076 per share per annum for the Series C Preferred Stock, \$0.022 per share per annum for the Series D Preferred Stock and \$0.026 per share per annum for the Series E Preferred Stock (as adjusted for any stock splits, stock dividends, recapitalizations or the like, with respect to each such series of Preferred Stock).

1.6 “*Junior Preferred Stock*” shall mean the Series A Preferred Stock, Series B Preferred Stock and Series C Preferred Stock.

1.7 “*Original Issue Date*” shall mean the date on which the first share of Series E Preferred Stock is issued by the Corporation for the Preferred Stock.

1.8 “*Original Issue Price*” shall mean \$0.10 per share for the Series A Preferred Stock, \$0.263 per share for the Series B Preferred Stock, \$0.95 per share for the Series C Preferred Stock, \$0.28071 per share for the Series D Preferred Stock and \$0.32082 per share for the Series E Preferred Stock. The Original Issue Price shall be as adjusted for any stock splits, stock dividends, recapitalizations or the like, with respect to such Preferred Stock occurring after the Original Issue Date.

1.9 “*Permitted Repurchases*” shall mean the repurchase by the Corporation of shares of Common Stock held by employees, officers, directors, consultants, independent contractors, advisors, or other persons performing services for the Corporation or a subsidiary that are subject to restricted stock purchase agreements or stock option exercise agreements under which the Corporation has the option to repurchase such shares: (i) at cost (or the lesser of cost or fair market value), upon the occurrence of certain events, such as the termination of employment or services; or (ii) at any price pursuant to the Corporation’s exercise of a right of first refusal to repurchase such shares.

1.10 “*Preferred Stock*” shall mean the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock and Series E Preferred Stock.

1.11 “*Senior Preferred Stock*” shall mean the Series E Preferred Stock.

1.12 “*Series A Preferred Stock*” shall mean the Series A Preferred Stock, no par value, of the Corporation.

1.13 “*Series B Preferred Stock*” shall mean the Series B Preferred Stock, no par value, of the Corporation.

1.14 “*Series C Preferred Stock*” shall mean the Series C Preferred Stock, no par value, of the Corporation.

1.15 “*Series D Preferred Stock*” shall mean the Series D Preferred Stock, no par value, of the Corporation.

1.16 “*Series E Preferred Stock*” shall mean the Series E Preferred Stock, no par value, of the Corporation

1.17 “*Subsidiary*” shall mean any corporation of which at least fifty percent (50%) of the outstanding voting stock is at the time owned directly or indirectly by the Corporation or by one or more of such subsidiary corporations.

## 2. Dividend Rights.

2.1 Senior Dividend Preference. In each calendar year, the holders of the then outstanding Senior Preferred Stock shall be entitled to receive, when, as and if declared by the Board, out of any funds and assets of the Corporation legally available therefor, noncumulative dividends at the annual Dividend Rate for each such series of Senior Preferred Stock, prior and in preference to the payment of any dividends on the Series D Preferred Stock, Junior Preferred Stock and Common Stock in such calendar year (other than a Common Stock Dividend). No dividends (other than a Common Stock Dividend) shall be paid, with respect to the Series D Preferred Stock, Junior Preferred Stock and Common Stock during any calendar year unless dividends in the total amount of the annual Dividend Rate for each such series of Senior Preferred Stock shall have first been paid or declared and set apart for payment to the holders of each such series of Senior Preferred Stock, respectively, during that calendar year; provided, however, that this restriction shall not apply to Permitted Repurchases. Payments of any dividends to the holders of each such series of Senior Preferred Stock shall be paid pro rata, on an equal priority, pari passu basis according to their respective dividend preferences as set forth herein. Dividends on the Senior Preferred Stock shall not be mandatory or cumulative, and no rights or interest shall accrue to the holders of the Senior Preferred Stock by reason of the fact that the Corporation shall fail to declare or pay dividends on the Senior Preferred Stock in the amount of the respective annual Dividend Rate for each such series or in any other amount in any calendar year or any fiscal year of the Corporation, whether or not the earnings of the Corporation in any calendar year or fiscal year were sufficient to pay such dividends in whole or in part.

2.2 Series D Dividend Preference. In each calendar year, after payment to the holders of Senior Preferred Stock above, the holders of the then outstanding Series D Preferred Stock shall be entitled to receive, when, as and if declared by the Board, out of any funds and assets of the Corporation legally available therefor, noncumulative dividends at the annual Dividend Rate for the Series D Preferred Stock, prior and in preference to the payment of any dividends on the Junior Preferred Stock and Common Stock in such calendar year (other than a Common Stock Dividend). No dividends (other than a Common Stock Dividend) shall be paid, with respect to the Junior Preferred Stock and Common Stock during any calendar year unless dividends in the total amount of the annual Dividend Rate for each such series of Series D Preferred Stock shall have first been paid or declared and set apart for payment to the holders of Series D Preferred Stock during that calendar year; provided, however, that this restriction shall not apply to Permitted Repurchases. Payments of any dividends to the holders of Series D Preferred Stock shall be paid pro rata, on an equal priority, pari passu basis. Dividends on the Series D Preferred Stock shall not be mandatory or cumulative, and no rights or interest shall accrue to the holders of the Series D Preferred Stock by reason of the fact that the Corporation shall fail to declare or pay dividends on the Series D Preferred Stock in the amount of the respective annual Dividend Rate for such series or in any other amount in any calendar year or any fiscal year of the Corporation, whether or not the earnings of the Corporation in any calendar year or fiscal year were sufficient to pay such dividends in whole or in part.



2.3 Junior Dividend Preference. In each calendar year, after payment to the holders of Senior Preferred Stock and Series D Preferred Stock above, the holders of the then outstanding Junior Preferred Stock shall be entitled to receive, when, as and if declared by the Board, out of any funds and assets of the Corporation legally available therefor, noncumulative dividends at the annual Dividend Rate for each such series of Junior Preferred Stock, prior and in preference to the payment of any dividends on the Common Stock in such calendar year (other than a Common Stock Dividend). No dividends (other than a Common Stock Dividend) shall be paid, with respect to the Common Stock during any calendar year unless dividends in the total amount of the annual Dividend Rate for each such series of Junior Preferred Stock shall have first been paid or declared and set apart for payment to the holders of each such series of Junior Preferred Stock, respectively, during that calendar year; provided, however, that this restriction shall not apply to Permitted Repurchases. Payments of any dividends to the holders of each such series of Junior Preferred Stock shall be paid pro rata, on an equal priority, pari passu basis according to their respective dividend preferences as set forth herein. Dividends on the Junior Preferred Stock shall not be mandatory or cumulative, and no rights or interest shall accrue to the holders of the Junior Preferred Stock by reason of the fact that the Corporation shall fail to declare or pay dividends on the Junior Preferred Stock in the amount of the respective annual Dividend Rate for each such series or in any other amount in any calendar year or any fiscal year of the Corporation, whether or not the earnings of the Corporation in any calendar year or fiscal year were sufficient to pay such dividends in whole or in part.

2.4 Participation Rights. If, after dividends in the full preferential amounts specified in this Section 2 for the Preferred Stock have been paid or declared and set apart in any calendar year of the Corporation, the Board shall declare additional dividends out of funds legally available therefor in that calendar year, then such additional dividends shall be declared pro rata on the Common Stock and the Preferred Stock on a pari passu basis according to the number of shares of Common Stock held by such holders, where each holder of shares of Preferred Stock is to be treated for this purpose as holding the greatest whole number of shares of Common Stock then issuable upon conversion of all shares of Preferred Stock held by such holder pursuant to Section 6.

2.5 Non-Cash Dividends. Whenever a dividend provided for in this Section 2 shall be payable in property other than cash, the value of such dividend shall be deemed to be the fair market value of such property as determined in good faith by the Board.

3. Liquidation Rights. In the event of any liquidation, dissolution or winding up of the Corporation (a "*Liquidation Event*"), whether voluntary or involuntary, the funds and assets that may be legally distributed to the Corporation's shareholders (the "*Available Funds and Assets*") shall be distributed to shareholders in the following manner:

3.1 Senior Liquidation Preferences. The holders of each share of Senior Preferred Stock then outstanding shall be entitled to be paid, out of the Available Funds and Assets, and prior and in preference to any payment or distribution (or any setting apart of any payment or distribution) of any Available Funds and Assets on any shares of Series D Preferred Stock, Junior Preferred Stock and Common Stock the greater of: (a) an amount per share equal to the Original Issue Price for each such series of Senior Preferred Stock, respectively, plus all declared but unpaid dividends thereon; or (b) the amount of cash, securities or other property to which such holder would be entitled to receive in a Liquidation Event with respect to such shares if such shares had been converted to Common Stock immediately prior to such Liquidation Event. If upon any Liquidation Event, the Available Funds and Assets shall be insufficient to permit the payment to holders of the Senior Preferred Stock of their full preferential amounts described in this subsection, then all the remaining Available Funds and Assets shall be distributed among the holders of the then outstanding Senior Preferred Stock pro rata, on an equal priority, pari passu basis, according to their respective liquidation preferences as set forth herein.

3.2 Series D Liquidation Preferences. The holders of each share of Series D Preferred Stock then outstanding shall be entitled to be paid, after the payment of Senior Preferred Stock

above, out of the Available Funds and Assets, and prior and in preference to any payment or distribution (or any setting apart of any payment or distribution) of any Available Funds and Assets on any shares of Junior Preferred Stock and Common Stock the greater of: (a) an amount per share equal to the Original Issue Price for the Series D Preferred Stock, plus all declared but unpaid dividends thereon; or (b) the amount of cash, securities or other property to which such holder would be entitled to receive in a Liquidation Event with respect to such shares if such shares had been converted to Common Stock immediately prior to such Liquidation Event. If upon any Liquidation Event, the Available Funds and Assets shall be insufficient to permit the payment to holders of the Series D Preferred Stock of their full preferential amounts described in this subsection, then all the remaining Available Funds and Assets shall be distributed among the holders of the then outstanding Series D Preferred Stock pro rata, on an equal priority, pari passu basis.

3.3 Junior Liquidation Preferences. The holders of each share of Junior Preferred Stock then outstanding shall be entitled to be paid, after the payment of Senior Preferred Stock and Series D Preferred Stock above, out of the Available Funds and Assets, and prior and in preference to any payment or distribution (or any setting apart of any payment or distribution) of any Available Funds and Assets on any shares of Common Stock the greater of: (a) an amount per share equal to the Original Issue Price for each such series of Junior Preferred Stock, respectively, plus all declared but unpaid dividends thereon; or (b) the amount of cash, securities or other property to which such holder would be entitled to receive in a Liquidation Event with respect to such shares if such shares had been converted to Common Stock immediately prior to such Liquidation Event. If upon any Liquidation Event, the Available Funds and Assets shall be insufficient to permit the payment to holders of the Junior Preferred Stock of their full preferential amounts described in this subsection, then all the remaining Available Funds and Assets shall be distributed among the holders of the then outstanding Junior Preferred Stock pro rata, on an equal priority, pari passu basis, according to their respective liquidation preferences as set forth herein.

3.4 Remaining Assets. If there are any Available Funds and Assets remaining after the payment or distribution (or the setting aside for payment or distribution) to the holders of the Preferred Stock of their full preferential amounts described above in this Section 3, then all such remaining Available Funds and Assets shall be distributed among the holders of the then outstanding Common Stock pro rata according to the number of shares of Common Stock held by each holder thereof.

3.5 Deemed Liquidation Events. Unless otherwise approved by vote of the holders of at least a majority of the shares of the Preferred Stock, each of the following shall be deemed to be a Liquidation Event: (a) any reorganization by way of share exchange, consolidation or merger, in one transaction or series of related transactions (each, a “*combination transaction*”), in which the Corporation is a constituent corporation or is a party with another entity if, as a result of such combination transaction, the voting securities of the Corporation that are outstanding immediately prior to the consummation of such combination transaction (other than any such securities that are held by an “Acquiring Shareholder”, as defined below) do not represent, or are not converted into, securities of the surviving entity of such combination transaction (or such surviving entity’s parent entity if the surviving entity is owned by the parent entity) that, immediately after the consummation of such combination transaction, together possess at least a majority of the total voting power of all securities of such surviving entity (or its parent entity, if applicable) that are outstanding immediately after the consummation of such combination transaction, including securities of such surviving entity (or its parent entity, if applicable) that are held by the Acquiring Shareholder; or (b) a sale, lease, or other conveyance of all or substantially all of the assets of the Corporation, that is followed by the distribution of the proceeds to the Company’s shareholders. For purposes of this Section 3.5, an “Acquiring Shareholder” means a shareholder or shareholders of the Corporation that (i) merges or combines with the Corporation in such combination transaction or (ii) owns or controls a majority of the voting power of another entity that merges or combines with the Corporation in such combination transaction.

3.6 Non-Cash Consideration. If any assets of the Corporation distributed to shareholders in connection with any liquidation, dissolution, or winding up of the Corporation are other than cash, then the value of such assets shall be their fair market value as determined by the Board of Directors in good faith, except that any securities to be distributed to shareholders in a liquidation, dissolution, or winding up of the Corporation shall be valued as follows:

(a) The method of valuation of securities not subject to investment representation letter or other similar restrictions on free marketability shall be as follows:

(i) unless otherwise specified in a definitive agreement for the acquisition of the Corporation, if the securities are then traded on a national securities exchange or the Nasdaq National Market (or a similar national quotation system), then the value shall be deemed to be the average of the closing prices of the securities on such exchange or system over the thirty (30) calendar day period ending three (3) trading days prior to the distribution; and

(ii) if (i) above does not apply but the securities are actively traded over-the-counter, then, unless otherwise specified in a definitive agreement for the acquisition of the Corporation, the value shall be deemed to be the average of the closing bid prices over the thirty (30) day period ending three (3) days prior to the distribution; and

(iii) if there is no active public market as described in clauses (i) or (ii) above, then the value shall be the fair market value thereof, as determined in good faith by the Board of Directors of the Corporation.

(b) The method of valuation of securities subject to investment letter or other restrictions on free marketability shall be to make an appropriate discount from the market value determined as above in subparagraphs (a)(i),(ii) or (iii) of this subsection to reflect the approximate fair market value thereof, as determined in good faith by the Board of Directors.

4. Redemption. The Preferred Stock shall not be redeemable at the option of any holder.

5. Voting Rights.

5.1 Common Stock. Each holder of shares of Common Stock shall be entitled to one (1) vote for each share thereof held.

5.2 Preferred Stock. Each holder of shares of Preferred Stock shall be entitled to the number of votes equal to the number of whole shares of Common Stock into which such shares of Preferred Stock could be converted pursuant to the provisions of Section 6 below at the record date for the determination of the shareholders entitled to vote on such matters or, if no such record date is established, the date such vote is taken or any written consent of shareholders is solicited.

5.3 General. Subject to the other provisions of these Articles of Incorporation, each holder of Preferred Stock shall have full voting rights and powers equal to the voting rights and powers of the holders of Common Stock, and shall be entitled to notice of any shareholders' meeting in accordance with the bylaws of the Corporation (as in effect at the time in question) and applicable law, and shall be entitled to vote, together with the holders of Common Stock, with respect to any question upon which holders of Common Stock have the right to vote, except as may be otherwise provided by applicable law. Except as otherwise expressly provided herein or as required by law, the holders of Preferred Stock and the holders of Common Stock shall vote together and not as separate classes.

5.4 Board of Directors Election and Removal.

(a) Election of Directors. So long as at least Forty Million (40,000,000) shares of Preferred Stock are outstanding (such number of shares being subject to proportional adjustments to reflect combinations or subdivisions of such Preferred Stock or dividends declared in shares of such stock), (i) the holders of the Series A Preferred Stock, voting as a separate series, shall be entitled to elect one (1) director of the Corporation and to remove from office such director and to fill any vacancy caused by the resignation, death or removal of such director; (ii) the holders of the Series B Preferred Stock, voting as a separate series, shall be entitled to elect one (1) director of the Corporation and to remove from office such director and to fill any vacancy caused by the resignation, death or removal of such director; (iii) the holders of the Series C Preferred Stock, voting as a separate series, shall be entitled to elect one (1) director of the Corporation and to remove from office such director and to fill any vacancy caused by the resignation, death or removal of such director; (iv) the holders of the Series E Preferred Stock, voting as a separate series, shall be entitled to elect one (1) director of the Corporation and to remove from office such director and to fill any vacancy caused by the resignation, death or removal of such director; (v) the holders of the Common Stock, voting as a separate class (with cumulative voting rights as among themselves in accordance with Section 708 of the California Corporations Code), shall be entitled to elect two (2) directors of the Corporation and to remove from office such directors and to fill any vacancy caused by the resignation, death or removal of such directors; and (vi) the holders of the Preferred Stock and the Common Stock, voting together as a single class (with cumulative voting rights as among themselves in accordance with Section 708 of the California Corporations Code) shall be entitled to elect the remaining director(s) of the Corporation and to remove from office such directors and to fill any vacancy caused by the resignation, death or removal of such directors.

(b) Termination. Notwithstanding anything in this subsection 5.4 to the contrary, the provisions of this subsection 5.4 shall cease to be of any further force or effect upon the earliest to occur of: (i) the first date on which the total number of outstanding shares of Preferred Stock is less than Forty Million (40,000,000) shares (such number of shares being subject to proportional adjustment to reflect combination or subdivisions of such Preferred Stock or dividends declared in shares of such stock); (ii) upon the consummation of a combination transaction; or (iii) upon the completion of a distribution to the Company's shareholders of the proceeds of a sale of all or substantially all of the Corporation's assets.

6. Conversion Rights. The outstanding shares of Preferred Stock shall be convertible into Common Stock as follows:

6.1 Optional Conversion.

(a) At the option of the holder thereof, each share of Preferred Stock shall be convertible, at any time or from time to time prior to the close of business on the business day before any date fixed for redemption of such share, into fully paid and nonassessable shares of Common Stock as provided herein.

(b) Each holder of Preferred Stock who elects to convert the same into shares of Common Stock shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Corporation or any transfer agent for the Preferred Stock or Common Stock, and shall give written notice to the Corporation at such office that such holder elects to convert the same and shall state therein the number of shares of Preferred Stock being converted. Thereupon the Corporation shall promptly issue and deliver at such office to such holder a certificate or certificates for the number of shares of Common Stock to which such holder is entitled upon such conversion. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the certificate or certificates representing the shares of Preferred Stock to be converted, and the person entitled to receive

the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder of such shares of Common Stock on such date. If a conversion election under this subsection 6.1 is made in connection with a Liquidation Event or an underwritten offering of the Corporation's securities pursuant to the Securities Act of 1933, as amended, (which underwritten offering does not cause an automatic conversion pursuant to subsection 6.2 to take place) the conversion may, at the option of the holder tendering shares of Preferred Stock for conversion, be conditioned upon the closing of such Liquidation Event or the closing with the underwriters of the sale of the Corporation's securities pursuant to such offering, as applicable, in which event the holders making such elections who are entitled to receive Common Stock upon conversion of their Preferred Stock shall not be deemed to have converted such shares of Preferred Stock until immediately prior to the closing of such Liquidation Event or sale of the Corporation's securities in the offering.

6.2 Automatic Conversion.

(a) Each share of Preferred Stock shall automatically be converted into fully paid and nonassessable shares of Common Stock, as provided herein: (i) immediately prior to the closing of a firm commitment underwritten public offering pursuant to an effective registration statement filed under the Securities Act of 1933, as amended, covering the offer and sale of Common Stock for the account of the Corporation in which the aggregate public offering price (before deduction of underwriters' discounts and commissions) equals or exceeds Twenty Million Dollars (\$20,000,000) (a "*Qualified IPO*"); or (ii) upon the Corporation's receipt of the written consent of the holders of not less than a majority of the then outstanding shares of Preferred Stock to the conversion of all then outstanding Preferred Stock under this Section 6.

(b) Upon the occurrence of the event specified in subparagraph 6.2(a) above, the outstanding shares of Preferred Stock shall be converted into Common Stock automatically without the need for any further action by the holders of such shares and whether or not the certificates representing such shares are surrendered to the Corporation or its transfer agent; provided, however, that the Corporation shall not be obligated to issue certificates evidencing the shares of Common Stock issuable upon such conversion unless the certificates evidencing such shares of Preferred Stock are either delivered to the Corporation or its transfer agent as provided below, or the holder notifies the Corporation or its transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the Corporation to indemnify the Corporation from any loss incurred by it in connection with such certificates. Upon the occurrence of such automatic conversion of the Preferred Stock, the holders of Preferred Stock shall surrender the certificates representing such shares at the office of the Corporation or any transfer agent for the Preferred Stock or Common Stock. Thereupon, there shall be issued and delivered to such holder promptly at such office and in its name as shown on such surrendered certificate or certificates, a certificate or certificates for the number of shares of Common Stock into which the shares of Preferred Stock surrendered were convertible on the date on which such automatic conversion occurred.

6.3 Conversion Price. Each share of Preferred Stock shall be convertible in accordance with subsection 6.1 or subsection 6.2 above into the number of shares of Common Stock that results from dividing the Original Issue Price for such series of Preferred Stock by the conversion price for such series of Preferred Stock that is in effect at the time of conversion (the "*Conversion Price*"). The initial Conversion Price for the Series A Preferred Stock, Series B Preferred Stock, Series D Preferred Stock and Series E Preferred Stock shall be the Original Issue Price for such series of Preferred Stock. The initial Conversion Price for the Series C Preferred Stock shall be \$0.75242. The Conversion Price of the Preferred Stock shall be subject to adjustment from time to time as provided below. Following each adjustment of the Conversion Price, such adjusted Conversion Price shall remain in effect until a further adjustment of such Conversion Price hereunder.

6.4 Adjustment Upon Common Stock Event. Upon the happening of a Common Stock Event (as hereinafter defined), the Conversion Price of each such series of Preferred Stock shall, simultaneously with the happening of such Common Stock Event, be adjusted by multiplying the Conversion Price of such series of Preferred Stock in effect immediately prior to such Common Stock Event by a fraction, (i) the numerator of which shall be the number of shares of Common Stock issued and outstanding immediately prior to such Common Stock Event, and (ii) the denominator of which shall be the number of shares of Common Stock issued and outstanding immediately after such Common Stock Event, and the product so obtained shall thereafter be the Conversion Price for such series of Preferred Stock. The Conversion Price for a series of Preferred Stock shall be readjusted in the same manner upon the happening of each subsequent Common Stock Event. As used herein, the term the "*Common Stock Event*" shall mean at any time or from time to time after the Original Issue Date, (i) any Common Stock Dividend, (ii) a subdivision of the outstanding shares of Common Stock into a greater number of shares of Common Stock, or (iii) a combination of the outstanding shares of Common Stock into a smaller number of shares of Common Stock.

6.5 Adjustments for Other Dividends and Distributions. If at any time or from time to time after the Original Issue Date the Corporation pays a dividend or makes another distribution to the holders of the Common Stock payable in securities of the Corporation, other than an event constituting a Common Stock Event, then in each such event provision shall be made so that the holders of the Preferred Stock shall receive upon conversion thereof, in addition to the number of shares of Common Stock receivable upon conversion thereof, the amount of securities of the Corporation which they would have received had their Preferred Stock been converted into Common Stock on the date of such event (or such record date, as applicable) and had they thereafter, during the period from the date of such event (or such record date, as applicable) to and including the conversion date, retained such securities receivable by them as aforesaid during such period, subject to all other adjustments called for during such period under this Section 6 with respect to the rights of the holders of the Preferred Stock or with respect to such other securities by their terms.

6.6 Adjustment for Reclassification, Exchange and Substitution. If at any time or from time to time after the Original Issue Date the Common Stock issuable upon the conversion of the Preferred Stock is changed into the same or a different number of shares of any class or classes of stock, whether by recapitalization, reclassification or otherwise (other than by a Common Stock Event or a stock dividend, reorganization, merger or consolidation provided for elsewhere in this Section 6), then in any such event each holder of Preferred Stock shall have the right thereafter to convert such stock into the kind and amount of stock and other securities and property receivable upon such recapitalization, reclassification or other change by holders of the number of shares of Common Stock into which such shares of Preferred Stock could have been converted immediately prior to such recapitalization, reclassification or change, all subject to further adjustment as provided herein or with respect to such other securities or property by the terms thereof.

6.7 Reorganizations, Mergers and Consolidations. If at any time or from time to time after the Original Issue Date there is a reorganization of the Corporation (other than a recapitalization, subdivision, combination, reclassification or exchange of shares provided for elsewhere in this Section 6) or a merger or consolidation of the Corporation with or into another corporation (except an event which is governed under subsection 3.5), then, as a part of such reorganization, merger or consolidation, provision shall be made so that the holders of the Preferred Stock thereafter shall 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 of such successor corporation resulting from such reorganization, merger or consolidation, to which a holder of Common Stock deliverable upon conversion would have been entitled on such reorganization, merger or consolidation. In any such case, appropriate adjustment shall be made in the application of the provisions of this Section 6 with respect to the rights of the holders of the Preferred Stock after the reorganization, merger or consolidation to the end that the provisions of this Section 6 (including adjustment of the Conversion Price then in effect and number of

shares issuable upon conversion of the Preferred Stock) shall be applicable after that event and be as nearly equivalent to the provisions hereof as may be practicable. This subsection 6.7 shall similarly apply to successive reorganizations, mergers and consolidations. Notwithstanding anything to the contrary contained in this Section 6, if any reorganization, merger or consolidation is approved by the vote of shareholders required by Section 7 hereof, then such transaction and the rights of the holders of Preferred Stock and Common Stock pursuant to such reorganization, merger or consolidation will be governed by the documents entered into in connection with such transaction and not by the provisions of this Section 6.7.

6.8 Sale of Shares Below Conversion Price.

(a) Adjustment Formula for Series C Preferred Stock and Series D Preferred Stock. If at any time or from time to time after the Original Issue Date the Corporation issues or sells, or is deemed by the provisions of this subsection 6.8 to have issued or sold, Additional Shares of Common Stock (as hereinafter defined), otherwise than in connection with a Common Stock Event as provided in subsection 6.4, a dividend or distribution as provided in subsection 6.5 or a recapitalization, reclassification or other change as provided in subsection 6.6, or a reorganization, merger or consolidation as provided in subsections 6.7 or 3.5, for an Effective Price (as hereinafter defined) that is less than the Series D Conversion Price in effect immediately prior to such issue or sale (or deemed issue or sale), then, and in each such case, the Series C Preferred Stock Conversion Price and Series D Preferred Stock Conversion Price each shall be reduced, as of the close of business on the date of such issue or sale, to the price obtained by multiplying such Conversion Price by a fraction:

(i) The numerator of which shall be the sum of (A) the number of Common Stock Equivalents Outstanding (as hereinafter defined) immediately prior to such issue or sale of Additional Shares of Common Stock plus (B) the quotient obtained by dividing the Aggregate Consideration Received (as hereinafter defined) by the Corporation for the total number of Additional Shares of Common Stock so issued or sold (or deemed so issued and sold) by the Series D Conversion Price in effect immediately prior to such issue or sale; and

(ii) The denominator of which shall be the sum of (A) the number of Common Stock Equivalents Outstanding immediately prior to such issue or sale plus (B) the number of Additional Shares of Common Stock so issued or sold (or deemed so issued and sold).

(b) Adjustment Formula for Series A Preferred Stock, Series B Preferred Stock and Series E Preferred Stock. If at any time or from time to time after the Original Issue Date the Corporation issues or sells, or is deemed by the provisions of this subsection 6.8 to have issued or sold, Additional Shares of Common Stock (as hereinafter defined), otherwise than in connection with a Common Stock Event as provided in subsection 6.4, a dividend or distribution as provided in subsection 6.5 or a recapitalization, reclassification or other change as provided in subsection 6.6, or a reorganization, merger or consolidation as provided in subsections 6.7 or 3.5, for an Effective Price (as hereinafter defined) that is less than the Conversion Price of the Series A Preferred Stock, Series B preferred Stock or Series E Preferred Stock in effect immediately prior to such issue or sale (or deemed issue or sale), then, and in each such case, the Series A Preferred Stock Conversion Price, Series B Preferred Stock Conversion Price and Series E Preferred Stock Conversion Price, as applicable, shall be reduced, as of the close of business on the date of such issue or sale, to the price obtained by multiplying such Conversion Price by a fraction:

(i) The numerator of which shall be the sum of (A) the number of Common Stock Equivalents Outstanding (as hereinafter defined) immediately prior to such issue or sale of Additional Shares of Common Stock plus (B) the quotient obtained by dividing the Aggregate Consideration Received (as hereinafter defined) by the Corporation for the total number of Additional

Shares of Common Stock so issued or sold (or deemed so issued and sold) by the Conversion Price of such series in effect immediately prior to such issue or sale; and

(ii) The denominator of which shall be the sum of (A) the number of Common Stock Equivalents Outstanding immediately prior to such issue or sale plus (B) the number of Additional Shares of Common Stock so issued or sold (or deemed so issued and sold).

For the avoidance of doubt, no Conversion Price for any series of Preferred Stock shall be adjusted pursuant to subsection 6.8(a) or this subsection 6.8(b) for any issuance of Additional Common Stock at an Effective Price equal to or greater than the Conversion Price for such series of Preferred Stock in effect immediately prior to such issuance of Additional Common Stock

(c) Certain Definitions. For the purpose of making any adjustment required under this subsection 6.8:

(i) The “*Additional Shares of Common Stock*” shall mean all shares of Common Stock issued by the Corporation, or deemed issued as provided in Section 6.8(d), whether or not subsequently reacquired or retired by the Corporation, other than:

(A) shares of Common Stock issued or issuable upon conversion of the outstanding shares of the Preferred Stock;

(B) any shares of Common Stock or Preferred Stock (or options, warrants or rights therefor) granted or issued hereafter to employees, officers, directors, contractors, consultants or advisers to, the Corporation or any Subsidiary pursuant to incentive agreements, stock purchase or stock option plans, stock bonuses or awards, warrants, contracts or other arrangements that are approved by a majority of the Board of Directors;

(C) any shares of the Corporation’s Common Stock or Preferred Stock (and/or options or warrants therefore) issued to parties that are (i) strategic partners investing in connection with a commercial relationship with the Corporation or (ii) providing the Corporation with equipment leases, real property leases, loans, credit lines, guaranties of indebtedness, cash price reductions or similar transactions, under arrangements, in each case, approved by a majority of the Board of Directors;

(D) shares of Common Stock or Preferred Stock issued pursuant to the acquisition of another corporation or entity by the Corporation by consolidation, merger, purchase of all or substantially all of the assets, or other reorganization in which the Corporation acquires, in a single transaction or series of related transactions, all or substantially all of the assets of such other corporation or entity or fifty percent (50%) or more of the voting power of such other corporation or entity or fifty percent (50%) or more of the equity ownership of such other entity; provided that such transaction or series of transactions has been approved by the Corporation’s Board of Directors or pursuant to the purchase of equity ownership of fifty percent (50%) or less in connection with a joint venture or other strategic arrangement or other commercial relationship, provided such an arrangement is approved by the Board of Directors;

(E) shares of Common Stock or Preferred Stock issuable upon exercise of any options, warrants or rights to purchase any securities of the Company outstanding as of the date of these Amended and Restated Articles of Incorporation and any securities issuable upon the conversion thereof;

(F) shares of Common Stock issued or issuable in a Qualified Public Offering; and



(G) any shares of Common Stock or Preferred Stock (or options, or warrants or rights to acquire same), issued or issuable hereafter that are (i) approved by the Board, and (ii) approved by the vote of the holders of a majority of the Preferred Stock, voting together as a single class, as being excluded from the definition of "Additional Shares of Common Stock" under this subparagraph 6.8(c).

(ii) The "**Aggregate Consideration Received**" by the Corporation for any issue or sale (or deemed issue or sale) of securities shall (A) to the extent it consists of cash, be computed at the gross amount of cash received by the Corporation before deduction of any underwriting or similar commissions, compensation or concessions paid or allowed by the Corporation in connection with such issue or sale and without deduction of any expenses payable by the Corporation; (B) to the extent it consists of property other than cash, be computed at the fair value of that property as determined in good faith by the Board; and (C) if Additional Shares of Common Stock, Convertible Securities or Rights or Options to purchase either Additional Shares of Common Stock or Convertible Securities are issued or sold together with other stock or securities or other assets of the Corporation for a consideration which covers both, be computed as the portion of the consideration so received that may be reasonably determined in good faith by the Board to be allocable to such Additional Shares of Common Stock, Convertible Securities or Rights or Options.

(iii) The "**Common Stock Equivalents Outstanding**" shall mean the number of shares of Common Stock that is equal to the sum of (A) all shares of Common Stock of the Corporation that are outstanding at the time in question, plus (B) all shares of Common Stock of the Corporation issuable upon conversion of all shares of Preferred Stock or other Convertible Securities that are outstanding at the time in question, plus (C) all shares of Common Stock of the Corporation that are issuable upon the exercise of Rights or Options that are outstanding at the time in question assuming the full conversion or exchange into Common Stock of all such Rights or Options that are Rights or Options to purchase or acquire Convertible Securities into or for Common Stock.

(iv) The "**Convertible Securities**" shall mean stock or other securities convertible into or exchangeable for shares of Common Stock.

(v) The "**Effective Price**" of Additional Shares of Common Stock shall mean the quotient determined by dividing the total number of Additional Shares of Common Stock issued or sold, or deemed to have been issued or sold, by the Corporation under this subsection 6.8, into the Aggregate Consideration Received, or deemed to have been received, by the Corporation under this subsection 6.8, for the issuance of such Additional Shares of Common Stock; and

(vi) The "**Rights or Options**" shall mean warrants, options or other rights to purchase or acquire shares of Common Stock or Convertible Securities.

(d) Deemed Issuances. For the purpose of making any adjustment to the Conversion Price of any series of Preferred Stock required under this subsection 6.8, if the Corporation issues or sells any Rights or Options or Convertible Securities and if the Effective Price of the shares of Common Stock issuable upon exercise of such Rights or Options and/or the conversion or exchange of Convertible Securities (computed without reference to any additional or similar protective or antidilution clauses) is less than the Conversion Price then in effect for a series of Preferred Stock, then the Corporation shall be deemed to have issued (each a "**Deemed Issuance**"), at the time of the issuance of such Rights, Options or Convertible Securities, that number of Additional Shares of Common Stock that is equal to the maximum number of shares of Common Stock issuable upon exercise or conversion of such Rights, Options or Convertible Securities upon their issuance and to have received, as the Aggregate Consideration Received for the issuance of such shares, an amount equal to the total amount of the consideration, if any, received by the Corporation for the issuance of such Rights or Options or Convertible Securities, plus, in the case of such Rights or Options, the minimum amounts of

consideration, if any, payable to the Corporation upon the exercise in full of such Rights or Options, plus, in the case of Convertible Securities, the minimum amounts of consideration, if any, payable to the Corporation (other than by cancellation of liabilities or obligations evidenced by such Convertible Securities) upon the conversion or exchange thereof; provided that:

(i) if the minimum amounts of such consideration cannot be ascertained, then the Deemed Issuance will occur when it can be ascertained;

(ii) if the minimum amounts of such consideration cannot be ascertained, but are a function of antidilution or similar protective clauses, then the Corporation shall be deemed to have received the minimum amounts of consideration without reference to such clauses;

(iii) if the minimum amount of consideration payable to the Corporation upon the exercise of Rights or Options or the conversion or exchange of Convertible Securities is reduced over time or upon the occurrence or non-occurrence of specified events other than by reason of antidilution or similar protective adjustments, then the Effective Price shall be recalculated using the figure to which such minimum amount of consideration is reduced; and

(iv) if the minimum amount of consideration payable to the Corporation upon the exercise of such Rights or Options or the conversion or exchange of Convertible Securities is subsequently increased, then the Effective Price shall again be recalculated using the increased minimum amount of consideration payable to the Corporation upon the exercise of such Rights or Options or the conversion or exchange of such Convertible Securities.

No further adjustment of the Conversion Price, adjusted upon the issuance of such Rights or Options or Convertible Securities, shall be made as a result of the actual issuance of shares of Common Stock on the exercise of any such Rights or Options or the conversion or exchange of any such Convertible Securities. If any such Rights or Options or the conversion rights represented by any such Convertible Securities shall expire without having been fully exercised, then the Conversion Price as adjusted upon the issuance of such Rights or Options or Convertible Securities shall be readjusted to the Conversion Price which would have been in effect had an adjustment been made on the basis that the only shares of Common Stock so issued were the shares of Common Stock, if any, that were actually issued or sold on the exercise of such Rights or Options or rights of conversion or exchange of such Convertible Securities, and such shares of Common Stock, if any, were issued or sold for the consideration actually received by the Corporation upon such exercise, plus the consideration, if any, actually received by the Corporation for the granting of all such Rights or Options, whether or not exercised, plus the consideration received for issuing or selling all such Convertible Securities actually converted or exchanged, plus the consideration, if any, actually received by the Corporation (other than by cancellation of liabilities or obligations evidenced by such Convertible Securities) on the conversion or exchange of such Convertible Securities, provided that such readjustment shall not apply to prior conversions of Preferred Stock.

6.9 Certificate of Adjustment. In each case of an adjustment or readjustment of the Conversion Price for a series of Preferred Stock, the Corporation, at its expense, shall cause its Chief Financial Officer to compute such adjustment or readjustment in accordance with the provisions hereof and prepare a certificate showing such adjustment or readjustment, and shall mail such certificate, by first class mail, postage prepaid, to each registered holder of the Preferred Stock at the holder's address as shown in the Corporation's books.

6.10 Fractional Shares. No fractional shares of Common Stock shall be issued upon any conversion of Preferred Stock. In lieu of any fractional share to which the holder would otherwise be entitled, the Corporation shall pay the holder cash equal to the product of such fraction multiplied by the Common Stock's fair market value as determined in good faith by the Board as of the date of conversion.

6.11 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 the Preferred Stock, such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of the Preferred Stock; 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 the 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 purpose.

6.12 Notices. Any notice required by the provisions of these Articles of Incorporation to be given to the holders of shares of the Preferred Stock shall be deemed given upon the earlier of actual receipt or deposit in the United States mail, by certified or registered mail, return receipt requested, postage prepaid, or delivery by a recognized express courier, fees prepaid, addressed to each holder of record at the address of such holder appearing on the books of the Corporation.

## 7. Restrictions and Limitations.

7.1 Class Protective Provisions. So long as a Qualified IPO has not been consummated and so long as Forty Million (40,000,000) shares of Preferred Stock remain outstanding, the Corporation shall not, without the approval, by vote or written consent, of the holders of a majority of the Preferred Stock then outstanding, voting as a separate class:

(a) amend any provision of these Articles of Incorporation or the Corporation's Bylaws in a manner so as to materially affect the rights or obligations of holders of the Preferred Stock;

(b) reclassify any outstanding shares of capital stock of the Corporation into shares having rights, preferences or privileges senior to or on a parity with the Preferred Stock;

(c) increase or decrease (other than by redemption or conversion) the total number of authorized shares of Common Stock or Preferred Stock;

(d) reorganize, consolidate or merge with or into any corporation or effect any transaction or series of related transactions if such transaction or series of related transactions would result in the shareholders of the Corporation immediately prior to such transaction or series of related transactions holding less than a majority of the voting power of the surviving corporation (or its parent corporation if the surviving corporation is wholly owned by the parent corporation) of such transaction or series of related transactions (provided however this subsection shall not apply to a merger affected exclusively for the purpose of changing the domicile of the corporation);

(e) sell, lease, transfer, convey or otherwise dispose of all or substantially all the Corporation's assets in a single transaction or series of related transactions;

(f) liquidate or dissolve;

(g) declare or pay any dividends (other than dividends payable solely in shares of its own Common Stock), directly or indirectly, on account of any shares of Preferred Stock or Common Stock now or hereafter outstanding;

(h) take any action that results in the redemption of any shares of Common Stock other than Permitted Repurchases; or

(i) change the authorized number of members of its Board of Directors.

7.2 Series D Protective Provisions. So long as a Qualified IPO has not been consummated and so long as Ten Million (10,000,000) shares of Series D Preferred Stock remain outstanding, the Corporation shall not (whether by merger, acquisition or amendment of these Articles of Incorporation), without the approval, by vote or written consent, of the holders of two-thirds (2/3<sup>rd</sup>) of the Series D Preferred Stock then outstanding, voting as a separate series:

(a) amend or waive any provision of these Articles of Incorporation or the Corporation's Bylaws so as to materially and adversely affect the rights or obligations of holders of the Series D Preferred Stock;

(b) reclassify any outstanding shares of capital stock of the Corporation into shares having rights, preferences or privileges senior to or on a parity with the Series D Preferred Stock;

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

(d) effect the automatic conversion of the Series D Preferred Stock into Common Stock other than pursuant to a Qualified IPO as described in clause (i) of subsection 6.2(a).

7.3 Series E Protective Provisions. So long as a Qualified IPO has not been consummated and so long as Ten Million (10,000,000) shares of Series E Preferred Stock remain outstanding, the Corporation shall not (whether by merger, acquisition or amendment of these Articles of Incorporation), without the approval, by vote or written consent, of the holders of two-thirds (2/3<sup>rd</sup>) of the Series E Preferred Stock then outstanding, voting as a separate series:

(a) amend or waive any provision of these Articles of Incorporation or the Corporation's Bylaws so as to materially and adversely affect the rights or obligations of holders of the Series E Preferred Stock;

(b) reclassify any outstanding shares of capital stock of the Corporation into shares having rights, preferences or privileges senior to or on a parity with the Series E Preferred Stock;

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

(d) effect the automatic conversion of the Series E Preferred Stock into Common Stock other than pursuant to a Qualified IPO as described in clause (i) of subsection 6.2(a).

## 8. Miscellaneous

8.1 No Reissuance of Preferred Stock. No share or shares of Preferred Stock acquired by the Corporation by reason of redemption, purchase, conversion or otherwise shall be reissued, and all such shares shall be cancelled, retired and eliminated from the shares which the Corporation shall be authorized to issue.

8.2 Consent to Certain Transactions. Each holder of shares of Preferred Stock shall, by virtue of its acceptance of a stock certificate evidencing Preferred Stock, be deemed to have consented, for purposes of Sections 502 and 503 of the California Corporations Code, to all Permitted Repurchases.

