

**TRADEMARK ASSIGNMENT**

Electronic Version v1.1  
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	CHANGE OF NAME		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
ValueScout, Inc.		09/03/2010	CORPORATION: DELAWARE
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	BloomSpot, Inc.		
<b>Street Address:</b>	345 Ritch Street		
<b>City:</b>	San Francisco		
<b>State/Country:</b>	CALIFORNIA		
<b>Postal Code:</b>	94107		
<b>Entity Type:</b>	CORPORATION: DELAWARE		
<b>PROPERTY NUMBERS Total: 1</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Serial Number:</b>	77763945	BLOOMSPOT	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	(646)349-2782		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
<b>Email:</b>	tsabety@hballp.com		
<b>Correspondent Name:</b>	Ted Sabety		
<b>Address Line 1:</b>	8 West 40th Street, 12th Floor		
<b>Address Line 2:</b>	Hand Baldachin & Amburgey LLP		
<b>Address Line 4:</b>	New York, NEW YORK 10018		
<b>ATTORNEY DOCKET NUMBER:</b>	VALUESCOUT BLOOMSPOT HBA		
<b>NAME OF SUBMITTER:</b>	Ted Sabety		
<b>Signature:</b>	/ts/		
<b>Date:</b>	09/13/2010		

CH \$40.00 77763945

**Total Attachments: 20**

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# Delaware

PAGE 1

*The First State*

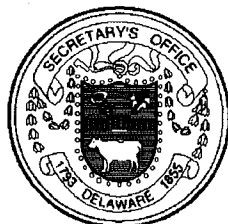
I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE RESTATED CERTIFICATE OF "VALUESCOUT, INC.", CHANGING ITS NAME FROM "VALUESCOUT, INC." TO "BLOOMSPOT, INC.", FILED IN THIS OFFICE ON THE THIRD DAY OF SEPTEMBER, A.D. 2010, AT 9:45 O'CLOCK A.M.

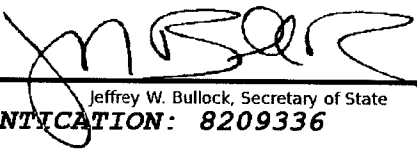
A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE KENT COUNTY RECORDER OF DEEDS.

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You may verify this certificate online  
at [corp.delaware.gov/authver.shtml](http://corp.delaware.gov/authver.shtml)



  
Jeffrey W. Bullock, Secretary of State  
AUTHENTICATION: 8209336

DATE: 09-03-10

TRADEMARK  
REEL: 004277 FRAME: 0484

SECOND AMENDED AND RESTATED  
CERTIFICATE OF INCORPORATION  
OF  
VALUESCOUT, INC.

Jasper Malcolmson hereby certifies that:

**ONE:** He is the duly elected and acting President of ValueScout, Inc., a Delaware corporation (the "*Company*").

**TWO:** The Company was originally incorporated pursuant to the Delaware General Corporation Law ("*DGCL*") under the name "Project Sing Inc." pursuant to the original Certificate of Incorporation of the Company filed with the Secretary of State of the State of Delaware on July 18, 2008 (the "*Original Certificate*").

**THREE:** An amended and restated Certificate of Incorporation (the "*First Amended and Restated Certificate*") was filed with the Secretary of State of the State of Delaware on March 4, 2009, amending and restating the Original Certificate in its entirety and changing the name of the Company to "ValueScout, Inc."

**FOUR:** The Board of Directors of the Company duly adopted resolutions proposing to amend and restate the First Amended and Restated Certificate, declaring said amendment and restatement to be advisable and in the best interests of the Company and its stockholders, and authorizing the appropriate officers of Company to solicit the consent of the stockholders therefore. The stockholders of the Company duly adopted resolutions amending and restating the First Amended and Restated Certificate in the form set forth herein. The First Amended and Restated Certificate is hereby amended and restated in its entirety to read as follows:

**I.**

The name of this company is **BLOOMSPOT, INC.** (the "*Company*").

**II.**

The address of the registered office of this Company in the State of Delaware is 874 Walker Road, Suite C, in the City of Dover, County of Kent, Delaware 19904, and the name of the registered agent of this Company in the State of Delaware at such address is United Corporate Services, Inc.

**III.**

The purpose of the Company is to engage in any lawful act or activity for which a corporation may be organized under the DGCL.

#### IV.

A. The Company is authorized to issue two classes of stock to be designated, respectively, "**Common Stock**" and "**Preferred Stock**." The total number of shares which the Company is authorized to issue is Sixteen Million Two Hundred and Ninety Thousand Two Hundred and Eighty Three (16,290,283) shares, Ten Million (10,000,000) shares of which shall be Common Stock (the "**Common Stock**") and Six Million Two Hundred and Ninety Thousand Two Hundred and Eighty Three (6,290,283) shares of which shall be Preferred Stock (the "**Preferred Stock**"). The Common Stock and the Preferred Stock shall each have a par value of \$0.001 per share.

B. Two Million Fifty Thousand (2,050,000) of the authorized shares of Preferred Stock are hereby designated "**Series Seed Convertible Preferred Stock**" (the "**Series Seed Stock**").

C. Four Million Two Hundred and Forty Thousand Two Hundred and Eighty Three (4,240,283) of the authorized shares of Preferred Stock are hereby designated "**Series A Convertible Preferred Stock**" (the "**Series A Stock**").

D. The rights, preferences, privileges, restrictions and other matters relating to the Preferred Stock are as follows:

##### 1. DIVIDEND RIGHTS.

(a) Holders of Preferred Stock, in preference to the holders of Common Stock, shall be entitled to receive, (A) when, as and if declared by the Board of Directors (the "**Board**"), but only out of funds that are legally available therefor, (B) upon the liquidation, dissolution or winding up of the Company, whether voluntary or involuntary, or (C) upon the conversion of the Preferred Stock into Common Stock pursuant to Section 5 below, non-cumulative cash dividends at the rate of eight percent (8%) of the Original Issue Price (as defined below) per annum on each outstanding share of Preferred Stock (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof). Such dividends shall accrue on each share of Preferred Stock from the date on which such share was issued, and shall accrue from day to day until paid, regardless of whether earned or declared.

(b) The "**Original Issue Price**" shall be \$1.00 per share for the Series Seed Stock and \$2.1225 for the Series A Stock.

(c) So long as any shares of Preferred Stock are outstanding, the Company shall not pay or declare any dividend, whether in cash or property, or make any other distribution on the Common Stock, or purchase, redeem or otherwise acquire for value any shares of Common Stock until all dividends as set forth in Section 1(a) above on the Preferred Stock shall have been paid or declared and set apart.

(d) In the event dividends are paid or distributions made on any share of Common Stock, whether in cash or property, the Company shall pay an additional dividend or make a distribution on all outstanding shares of Preferred Stock in a per share amount equal (on

an as-if converted to Common Stock basis) to the amount paid or set aside for each share of Common Stock.

(e) The provisions of Sections 1(c) and (d) shall not apply to (i) a dividend payable in Common Stock, (ii) acquisitions of Common Stock by the Company pursuant to agreements which permit the Company to repurchase such shares at cost (or the lesser of cost or fair market value) upon termination of services to the Company; (iii) acquisitions of Common Stock in exercise of the Company's right of first refusal to repurchase such shares, provided, that such exercise is approved by the Board, including the affirmative approval of at least one (1) Preferred Designee (as defined below), or (iv) any repurchase of any outstanding securities of the Company that is approved by the Board, including the affirmative approval of at least one (1) Preferred Designee.

(f) Whenever a dividend provided for in this Section 1 shall be payable in property other than cash, the value of such dividend shall be the fair market value of such distribution as determined in good faith by the Board.

## 2. VOTING RIGHTS.

(a) **General Rights.** Each holder of shares of the Preferred Stock shall be entitled to the number of votes equal to the number of shares of Common Stock into which such shares of Preferred Stock could be converted (pursuant to Section 5 hereof) immediately after the close of business on the record date fixed for such meeting or the effective date of such written consent and shall have voting rights and powers equal to the voting rights and powers of the Common Stock, except that the holders of the Preferred Stock shall not be entitled to vote in connection with any election for or removal of directors elected pursuant to the provisions of Section 2(c)(iii) below, and shall be entitled to notice of any stockholders' meeting in accordance with the bylaws of the Company. Except as otherwise provided herein or as required by law, the Preferred Stock shall vote together with the Common Stock at any annual or special meeting of the stockholders and not as a separate class, and may act by written consent in the same manner as the Common Stock.

(b) **Separate Vote of Preferred Stock.** For so long as any shares of Preferred Stock remain outstanding, in addition to any other vote or consent required herein or by law, the vote or written consent of the holders of a majority of the outstanding shares of Preferred Stock, voting together as a single class on an as-if converted to Common Stock basis, shall be necessary for the Company to effect or validate any of the following actions (whether by amendment, merger, reorganization, consolidation, or otherwise) or to permit any subsidiary of the Company to effect or validate any of the following actions (whether by amendment, merger, reorganization, consolidation, or otherwise):

(i) Any amendment, alteration, waiver or repeal of any provision of the Certificate of Incorporation or the Bylaws of the Company (including any filing of a Certificate of Designation);

(ii) Any increase or decrease in the authorized number of shares of Preferred Stock or Common Stock;

(iii) Any authorization, issuance or any designation, whether by reclassification or otherwise, of any new class or series of stock or any other securities convertible into equity securities of the Company having rights, preferences and privileges on a parity with or senior to the Preferred Stock with respect to dividends, liquidation preference, voting, redemption or antidilution protection;

(iv) Any redemption or repurchase of the Company's Common Stock or Preferred Stock (except for acquisitions of Common Stock by the Company described in Section 1(e) hereof);

(v) Any Liquidation Event;

(vi) Any increase or decrease in the authorized number of members of the Board;

(vii) Any action that results in the payment or declaration of a dividend on any shares of Common Stock or Preferred Stock (other than as permitted pursuant to Section 1(e) above); or

(viii) Any adverse changes to the rights, preferences, and privileges of the Preferred Stock.

(c) **Election of Board of Directors.**

(i) For so long as any shares of Series Seed Stock remain outstanding, the holders of Series Seed Stock, voting as a separate class, shall be entitled to elect one (1) member of the Board (the "**Series Seed Designee**") at each meeting or pursuant to each consent of the Company's stockholders for the election of directors, and to remove from office such directors and to fill any vacancy caused by the resignation, death or removal of such directors;

(ii) For so long as any shares of Series A Stock remain outstanding, the holders of Series A Stock, voting as a separate class, shall be entitled to elect one (1) member of the Board (the "**Series A Designee**" and, together with the Series Seed Designee, the "**Preferred Designees**" and each a "**Preferred Designee**") at each meeting or pursuant to each consent of the Company's stockholders for the election of directors, and to remove from office such directors and to fill any vacancy caused by the resignation, death or removal of such directors;

(iii) The holders of Common Stock, voting as a separate class, shall be entitled to elect two (2) members of the Board at each meeting or pursuant to each consent of the Company's stockholders for the election of directors, and to remove from office such directors and to fill any vacancy caused by the resignation, death or removal of such directors; and

(iv) The holders of Common Stock and Preferred Stock, voting together as a single class on an as-if converted to Common Stock basis, shall be entitled to elect all remaining members of the Board, at each meeting or pursuant to each consent of the

Company's stockholders for the election of directors, and to remove from office such directors and to fill any vacancy caused by the resignation, death or removal of such directors.

### 3. LIQUIDATION RIGHTS.

(a) **Preferred Stock.** Subject to Section 3(c) below, upon any liquidation, dissolution, or winding up of the Company, whether voluntary or involuntary (a "**Liquidation Event**"), before any distribution or payment shall be made to the holders of any Common Stock, the holders of Preferred Stock shall be entitled to be paid out of the assets of the Company legally available for distribution, or the consideration received in such transaction, for each share of Preferred Stock held by them, an amount per share of Preferred Stock equal to the sum of (i) the Original Issue Price of such share (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof) (the "**Liquidation Preference**") plus (ii) all declared and unpaid dividends on such share of Preferred Stock. If, upon any such Liquidation Event, the assets of the Company (or the consideration received in such transaction) shall be insufficient to make payment in full to all holders of Preferred Stock of the liquidation preference set forth in this Section 3(a), then such assets (or consideration) shall be distributed among the holders of Preferred Stock at the time outstanding, ratably in proportion to the full amounts to which they would otherwise be respectively entitled if such amounts had been paid in full.

(b) **Remaining Assets.** After the payment of the full liquidation preference of the Preferred Stock as set forth in Section 3(a) above, the remaining assets of the Company legally available for distribution in such Liquidation Event (or the consideration received in such transaction), if any, shall be distributed ratably to the holders of the Common Stock.

(c) **Deemed Conversion.** Notwithstanding Sections 3(a) and (b) above, solely for purposes of determining the amount each holder of shares of Preferred Stock is entitled to receive with respect to a Liquidation Event, the Preferred Stock shall be treated as if all holders of a series of Preferred Stock had converted such holder's shares of such series of Preferred Stock into shares of Common Stock immediately prior to the Liquidation Event if, as a result of an actual conversion of such series of Preferred Stock (including taking into account the operation of this paragraph (c) with respect to the Preferred Stock), holders of such series of Preferred Stock would receive, in the aggregate, an amount greater than the amount that would be distributed to holders of such series of Preferred Stock if such holders had not converted such series of Preferred Stock into shares of Common Stock. If holders of a series of Preferred Stock are treated as if they had converted shares of such series of Preferred Stock into Common Stock pursuant to this paragraph, then such holders shall not be entitled to receive any distribution pursuant to Section 3(a) above that would otherwise be made to holders of Preferred Stock.

### 4. ASSET TRANSFER OR ACQUISITION RIGHTS.

(a) An Acquisition or Asset Transfer (each as hereinafter defined) shall be deemed to be a Liquidation Event (including, without limitation, for the purposes of Section 3 above) (a "**Deemed Liquidation**"). The amount deemed paid or distributed to holders



of capital stock of the Company upon any Deemed Liquidation shall be determined in accordance with Section 4(c) below.

(b) For the purposes of this Section 4: (i) "**Acquisition**" shall mean (A) any consolidation, stock exchange or merger of the Company with or into any other corporation or other entity or person, or any other corporate reorganization, other than any such consolidation, merger or reorganization in which the stockholders of the Company immediately prior to such consolidation, merger or reorganization, continue to hold at least a majority of the voting power of the surviving entity in substantially the same proportions (or, if the surviving entity is a wholly-owned subsidiary, its parent) immediately after such consolidation, merger or reorganization; or (B) any transaction or series of related transactions to which the Company is a party in which in excess of fifty percent (50%) of the Company's voting power is transferred; provided that an Acquisition shall not include (x) any consolidation or merger effected exclusively to change the domicile of the Company, or (y) any transaction or series of transactions principally for bona fide equity financing purposes in which cash is received by the Company or any successor or indebtedness of the Company is cancelled or converted or a combination thereof; and (ii) "**Asset Transfer**" shall mean a sale, lease or other disposition of all or substantially all of the assets of the Company or the sale, exclusive license, conveyance, exchange or other transfer of all or substantially all of the intellectual property of the Company.

(c) In any Acquisition or Asset Transfer, if the consideration to be received is securities of a corporation or other property other than cash, its value will be deemed its fair market value as determined in good faith by the Board, including the affirmative approval of at least one (1) Preferred Designee, on the date such determination is made; provided, however, that any publicly-traded securities to be distributed to stockholders will be valued as follows:

(i) Securities not subject to investment letter or other similar restrictions on free marketability:

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

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

(ii) The method of valuation of securities subject to investment letter or other restrictions on free marketability (other than restrictions arising solely by virtue of a stockholder's status as an affiliate or former affiliate) shall be to make an appropriate discount from the market value determined as above in Sections 4(c)(i)(A) and (B) to reflect the approximate fair market value thereof, as determined in good faith by the Board.

(d) Notwithstanding anything to the contrary in this Section 4, if the definitive transaction documents for an Acquisition or Asset Transfer provide for a different method of valuation, the method of valuation set forth in such documents shall control.

## 5. CONVERSION RIGHTS.

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

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

(b) **Preferred Stock Conversion Rate.** The conversion rate in effect at any time for conversion of a series of the Preferred Stock (the "*Preferred Stock Conversion Rate*") shall be the quotient obtained by dividing the Original Issue Price of such series of Preferred Stock by the "*Preferred Stock Conversion Price*", calculated as provided in Section 5(c).

(c) **Preferred Stock Conversion Price.** The conversion price of a series of Preferred Stock shall initially be the Original Issue Price for such series of the Preferred Stock (the "*Preferred Stock Conversion Price*"). Such initial Preferred Stock Conversion Price shall be adjusted from time to time in accordance with this Section 5. All references to the Preferred Stock Conversion Price herein shall mean the Preferred Stock Conversion Price as so adjusted.

(d) **Mechanics of Conversion.** Each holder of Preferred Stock who desires to convert the same into shares of Common Stock pursuant to this Section 5 shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Company or any transfer agent for the Preferred Stock, and shall give written notice to the Company at such office that such holder elects to convert the same. Such notice shall state the number of shares of each series of Preferred Stock being converted. Thereupon, the Company shall promptly issue and deliver at such office to such holder a certificate or certificates for the number of shares of Common Stock to which such holder is entitled and shall promptly pay (i) at the election of each holder of Preferred Stock in his, her or its sole discretion, in cash or in Common Stock (at the Common Stock's fair market value determined by the Board as of the date of such conversion), any declared and unpaid dividends on the shares of Preferred Stock being converted and (ii) in cash (at the Common Stock's fair market value determined by the Board as of the date of conversion) the value of any fractional share of Common Stock otherwise issuable to any holder of Preferred Stock. Such conversion shall be deemed to have been made at the close of business on the date of such surrender of the certificates representing the shares of Preferred Stock to be converted, and the person entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder of such shares of Common Stock on such date. Upon conversion of a share of Preferred Stock pursuant to this Section 5(d), any accrued but unpaid dividends on such share of Preferred Stock shall expire and be cancelled.

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

(f) **Adjustment for Common Stock Dividends and Distributions.** If at any time or from time to time after the Original Issue Date the Company pays to holders of Common Stock a dividend or other distribution on the Common Stock in additional shares of Common Stock without a corresponding dividend or other distribution to holders of a series of Preferred Stock, the Preferred Stock Conversion Price that is then in effect for such series of Preferred Stock shall be decreased as of the time of such issuance, as provided below:

(i) The Preferred Stock Conversion Price for such series of Preferred Stock shall be adjusted by multiplying the Preferred Stock Conversion Price then in effect by a fraction:

(A) the numerator of which is the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance, and

(B) the denominator of which is the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance plus the number of shares of Common Stock issuable in payment of such dividend or distribution;

(ii) If the Company fixes a record date to determine which holders of Common Stock are entitled to receive such dividend or other distribution, the Preferred Stock Conversion Price for such series of Preferred Stock shall be fixed as of the close of business on such record date and the number of shares of Common Stock shall be calculated immediately prior to the close of business on such record date; and

(iii) If such record date is fixed and such dividend is not fully paid or if such distribution is not fully made on the date fixed therefor, the Preferred Stock Conversion Price for such series of Preferred Stock shall be recomputed accordingly as of the close of business on such record date and thereafter the Preferred Stock Conversion Price for such series of Preferred Stock shall be adjusted pursuant to this Section 5(f) to reflect the actual payment of such dividend or distribution.

(g) **Adjustment for Reclassification, Exchange, Substitution, Reorganization, Merger or Consolidation.** 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, merger, consolidation or otherwise (other than an Acquisition or Asset Transfer as defined in Section 4(b) or a subdivision or combination of shares or stock dividend or a reorganization, merger, consolidation or sale of assets provided for elsewhere in this Section 5), in any such event each holder of Preferred Stock shall then have the right to convert such stock into the kind and amount of stock and other securities and property receivable upon such recapitalization, reclassification, merger, consolidation or other change by holders of the maximum number of shares of Common Stock into which such shares of Preferred Stock could have been converted immediately prior to such recapitalization, reclassification, merger, consolidation or change, all subject to further adjustment as provided herein or with respect to such other securities or property by the terms thereof. In any such case, appropriate adjustment shall be made in the application of the provisions of this Section 5 with respect to the rights of the holders of Preferred Stock after the capital reorganization to the end that the provisions of this Section 5 (including adjustment of the Preferred Stock Conversion Price then in effect and the number of shares issuable upon conversion of the Preferred Stock) shall be applicable after that event and be as nearly equivalent as practicable.

**(h) Sale of Shares Below Preferred Stock Conversion Price.**

(i) If at any time or from time to time after the Original Issue Date of a series of Preferred Stock, the Company issues or sells, or is deemed by the express provisions of this Section 5(h) to have issued or sold, Additional Shares of Common Stock (as defined below), other than as provided in Section 5(e), 5(f) or 5(g) above, for an Effective Price (as defined below) less than the then effective Preferred Stock Conversion Price for such series of Preferred Stock (a "*Qualifying Dilutive Issuance*"), then and in each such case, the then existing Preferred Stock Conversion Price for such series of Preferred Stock shall be reduced, as of the opening of business on the date of such issue or sale, to a price (calculated to the eighth (8<sup>th</sup>) digit to the right of the decimal point) determined by multiplying the Preferred Stock Conversion Price for such series of Preferred Stock in effect immediately prior to such issuance or sale by a fraction:

(A) the numerator of which shall be (i) the number of shares of Common Stock deemed outstanding (as determined below) immediately prior to such issue or sale, plus (ii) the number of shares of Common Stock which the Aggregate Consideration (as defined below) received or deemed received by the Company for the total number of Additional Shares of Common Stock so issued would purchase at such then-effective Preferred Stock Conversion Price for such series of Preferred Stock, and

(B) the denominator of which shall be the number of shares of Common Stock deemed outstanding (as determined below) immediately prior to such issue or sale plus the total number of Additional Shares of Common Stock so issued.

(ii) For the purposes of the preceding sentence, the number of shares of Common Stock deemed to be outstanding as of a given date shall be the sum of (A) the number of actually issued and outstanding shares of Common Stock on the day immediately preceding the given date, (B) the number of shares of Common Stock into which the then outstanding shares of Preferred Stock could be converted if fully converted on the day

immediately preceding the given date, and (C) the number of shares of Common Stock which are issuable upon the exercise or conversion of all other rights, options and convertible securities outstanding on the day immediately preceding the given date.

(iii) No adjustment shall be made to the Preferred Stock Conversion Price for a series in an amount less than one cent per share. Any adjustment otherwise required by this Section 5(h) that is not required to be made due to the preceding sentence shall be included in any subsequent adjustment to the Preferred Stock Conversion Price for a series.

(iv) For the purpose of making any adjustment required under this Section 5(h), the aggregate consideration received by the Company for any issue or sale of securities (the "*Aggregate Consideration*") shall be computed as follows: (A) to the extent it consists of cash, Aggregate Consideration shall be computed at the gross amount of cash received by the Company before deduction of any underwriting or similar commissions, compensation or concessions paid or allowed by the Company in connection with such issue or sale and without deduction of any expenses payable by the Company, (B) to the extent it consists of property other than cash, Aggregate Consideration shall 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 (as defined below) 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 Company for a consideration which covers both, Aggregate Consideration shall 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.

(v) For the purpose of the adjustment required under this Section 5(h), if the Company issues or sells (x) Preferred Stock or other stock, options, warrants, purchase rights or other securities convertible into, Additional Shares of Common Stock (such convertible stock or securities being herein referred to as "*Convertible Securities*") or (y) rights or options for the purchase of Additional Shares of Common Stock or Convertible Securities and if the Effective Price of such Additional Shares of Common Stock is less than the Preferred Stock Conversion Price for a series of Preferred Stock, in each case the Company shall be deemed to have issued at the time of the issuance of such rights or options or Convertible Securities the maximum number of Additional Shares of Common Stock issuable upon exercise or conversion thereof and to have received as consideration for the issuance of such shares an amount equal to the total amount of the consideration, if any, received by the Company for the issuance of such rights or options or Convertible Securities plus:

(A) in the case of such rights or options, the minimum amounts of consideration, if any, payable to the Company upon the exercise of such rights or options; and

(B) in the case of Convertible Securities, the minimum amounts of consideration, if any, payable to the Company upon the conversion thereof (other than by cancellation of liabilities or obligations evidenced by such Convertible Securities); *provided* that if the minimum amounts of such consideration cannot be ascertained, but are a

function of antidilution or similar protective clauses, the Company shall be deemed to have received the minimum amounts of consideration without reference to such clauses.

(C) If the minimum amount of consideration payable to the Company upon the exercise or conversion of rights, options or Convertible Securities is reduced over time or on the occurrence or non-occurrence of specified events other than by reason of antidilution adjustments, the Effective Price shall be recalculated using the figure to which such minimum amount of consideration is reduced; *provided further*, that if the minimum amount of consideration payable to the Company upon the exercise or conversion of such rights, options or Convertible Securities is subsequently increased, the Effective Price shall be again recalculated using the increased minimum amount of consideration payable to the Company upon the exercise or conversion of such rights, options or Convertible Securities.

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

(vi) For the purpose of making any adjustment to the Conversion Price of any series of Preferred Stock required under this Section 5(h), "***Additional Shares of Common Stock***" shall mean all shares of Common Stock issued by the Company or deemed to be issued pursuant to this Section 5(h) (including shares of Common Stock subsequently reacquired or retired by the Company), other than:

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

(B) up to an aggregate amount of Seven Hundred and Forty Five Thousand Five Hundred (745,500) shares of Common Stock or Convertible Securities (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like after the Original Issue Date) issued with the consent of the Board (including the affirmative approval of at least one (1) Preferred Designee) after the Original Issue Date to employees, officers or

directors of, or consultants or advisors to the Company or any subsidiary, pursuant to the Company's Amended and Restated 2009 Stock Option Plan or such other stock purchase or stock option plan or other arrangements that are approved by the Board.

(C) shares of Common Stock issued pursuant to the exercise of Convertible Securities outstanding as of the Original Issue Date;

(D) shares of Common Stock, Preferred Stock and Convertible Securities issued for consideration other than cash pursuant to a merger, consolidation, acquisition, strategic alliance or similar business combination approved by the Board and at least one (1) Preferred Designee;

(E) shares of Common Stock, Preferred Stock and Convertible Securities issued pursuant to any equipment loan or leasing arrangement, real property leasing arrangement or debt financing from a bank or similar financial institution approved by the Board;

(F) shares of Common Stock, Preferred Stock and Convertible Securities issued to third-party service providers in exchange for or as partial consideration for services rendered to the Company; *provided*, that the issuance of such shares has been approved by the Board and at least one (1) Preferred Designee; or

(G) shares of Common Stock, Preferred Stock and Convertible Securities issued in connection with strategic transactions involving the Company and other entities, including (i) joint ventures, manufacturing, marketing or distribution arrangements or (ii) technology transfer or development arrangements approved by the Board and at least one (1) Preferred Designee.

References to Common Stock in the subsections of this clause (vi) above shall mean all shares of Common Stock issued by the Company or deemed to be issued pursuant to this Section 5(h). 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 Company under this Section 5(h), into the Aggregate Consideration received, or deemed to have been received by the Company for such issue under this Section 5(h), for such Additional Shares of Common Stock. In the event that the number of shares of Additional Shares of Common Stock or the Effective Price cannot be ascertained at the time of issuance, such Additional Shares of Common Stock shall be deemed issued immediately upon the occurrence of the first event that makes such number of shares or the Effective Price, as applicable, ascertainable.

(vii) In the event that the Company issues or sells, or is deemed to have issued or sold, Additional Shares of Common Stock in a Qualifying Dilutive Issuance (the "*First Dilutive Issuance*"), then in the event that the Company issues or sells, or is deemed to have issued or sold, Additional Shares of Common Stock in a Qualifying Dilutive Issuance other than the First Dilutive Issuance as a part of the same transaction or series of transactions (a "*Subsequent Dilutive Issuance*"), then and in each such case upon a Subsequent Dilutive Issuance the Preferred Stock Conversion Price for each series of Preferred Stock shall be reduced

to the Preferred Stock Conversion Price that would have been in effect for such series of Preferred Stock had the First Dilutive Issuance and each Subsequent Dilutive Issuance all occurred on the closing date of the First Dilutive Issuance.

**(i) Waiver of Antidilution Protection.** Notwithstanding anything to the contrary, any provision of Section 5(h) and any adjustments made or required to be made to the Preferred Stock Conversion Price for a series of Preferred Stock pursuant hereto may be waived on behalf of all shares of such series of Preferred Stock by the vote or written consent of the holders of a majority of the outstanding shares of such series of Preferred Stock.

**(j) Certificate of Adjustment.** In each case of an adjustment or readjustment of the Preferred Stock Conversion Price for the number of shares of Common Stock or other securities issuable upon conversion of a series of Preferred Stock, if the Preferred Stock is then convertible pursuant to this Section 5, the Company, at its expense, shall compute such adjustment or readjustment in accordance with the provisions hereof and prepare a certificate showing such adjustment or readjustment, and shall mail such certificate, by first class mail, postage prepaid, to each registered holder of such series of Preferred Stock at the holder's address as shown in the Company's books. The certificate shall set forth such adjustment or readjustment, showing in detail the facts upon which such adjustment or readjustment is based, including a statement of (i) the consideration received or deemed to be received by the Company for any Additional Shares of Common Stock issued or sold or deemed to have been issued or sold, (ii) the Preferred Stock Conversion Price at the time in effect, (iii) the number of Additional Shares of Common Stock and (iv) the type and amount, if any, of other property which at the time would be received upon conversion of the Preferred Stock.

**(k) Notices of Record Date.** Upon (i) any taking by the Company of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend or other distribution, or (ii) any Acquisition (as defined in Section 4) or other capital reorganization of the Company, any reclassification or recapitalization of the capital stock of the Company, any merger or consolidation of the Company with or into any other corporation, or any Asset Transfer (as defined in Section 4), or any voluntary or involuntary dissolution, liquidation or winding up of the Company, the Company shall mail to each holder of Preferred Stock at least ten (10) days prior to the record date, if any, specified therein (or if no record date is specified, the date upon which such action is to take effect, or in either case, such shorter period approved by the holders of a majority of the outstanding shares of Preferred Stock) a notice specifying (A) the date on which any such record is to be taken for the purpose of such dividend or distribution and a description of such dividend or distribution, (B) the date on which any such Acquisition, reorganization, reclassification, transfer, consolidation, merger, Asset Transfer, dissolution, liquidation or winding up is expected to become effective, and (C) the date, if any, that is to be fixed as to when the holders of record of Common Stock (or other securities) shall be entitled to exchange their shares of Common Stock (or other securities) for securities or other property deliverable upon such Acquisition, reorganization, reclassification, transfer, consolidation, merger, Asset Transfer, dissolution, liquidation or winding up.



**(I) Automatic Conversion.**

**(i)** Each share of Series Seed Stock shall automatically be converted into shares of Common Stock, based on the then-effective Preferred Stock Conversion Rate for Series Seed Stock, (A) at any time upon the affirmative election of the holders of a majority of the outstanding shares of the Series Seed Stock (voting together on an as-if converted to Common Stock basis), or (B) immediately upon the closing of a firm commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, covering the offer and sale of Common Stock for the account of the Company in which the gross cash proceeds to the Company (after underwriting discounts, commissions and fees) are at least \$35,000,000. Upon such automatic conversion, any accrued and unpaid and any declared and unpaid dividends shall be paid as set forth in Section 5(1)(ii) below.

**(ii)** Upon the occurrence of either of the events specified in Sections 5(1)(i) (A) or (B) above, the outstanding shares of Series Seed Stock shall be converted automatically without any further action by the holders of such shares and whether or not the certificates representing such shares are surrendered to the Company or its transfer agent; *provided, however*, that the Company shall not be obligated to issue certificates evidencing the shares of Common Stock issuable upon such conversion unless the certificates evidencing shares of Series Seed Stock are either delivered to the Company or its transfer agent as provided below, or the holder notifies the Company or its transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the Company to indemnify the Company from any loss incurred by it in connection with such certificates. Upon the occurrence of such automatic conversion of the Series Seed Stock, the holders of Series Seed Stock shall surrender the certificates representing such shares at the office of the Company or any transfer agent for the Series Seed 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 such shares of Series Seed Stock surrendered were convertible on the date on which such automatic conversion occurred, and any accrued and any declared and unpaid dividends shall be paid at the election of the holders of a majority of the outstanding shares of Series Seed Stock, voting as a separate class, in cash or in Common Stock (at the Common Stock's fair market value, determined by the Board as of the date of such conversion).

**(iii)** Each share of Series A Stock shall automatically be converted into shares of Common Stock, based on the then-effective Preferred Stock Conversion Rate for Series A Stock, (A) at any time upon the affirmative election of the holders of a majority of the outstanding shares of the Series A Stock (voting together on an as-if converted to Common Stock basis), or (B) immediately upon the closing of a firm commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, covering the offer and sale of Common Stock for the account of the Company in which the per share price to public is not less than \$15 and the gross cash proceeds to the Company (before underwriting discounts, commissions and fees) are at least \$40,000,000. Upon such automatic conversion, any accrued and unpaid and any declared and unpaid dividends shall be paid as set forth in Section 5(1)(iv) below.

(iv) Upon the occurrence of either of the events specified in Sections 5(l)(iii) (A) or (B) above, the outstanding shares of Series A Stock shall be converted automatically without any further action by the holders of such shares and whether or not the certificates representing such shares are surrendered to the Company or its transfer agent; *provided, however*, that the Company shall not be obligated to issue certificates evidencing the shares of Common Stock issuable upon such conversion unless the certificates evidencing shares of Series A Stock are either delivered to the Company or its transfer agent as provided below, or the holder notifies the Company or its transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the Company to indemnify the Company from any loss incurred by it in connection with such certificates. Upon the occurrence of such automatic conversion of the Series A Stock, the holders of Series A Stock shall surrender the certificates representing such shares at the office of the Company or any transfer agent for the Series A 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 such shares of Series A Stock surrendered were convertible on the date on which such automatic conversion occurred, and any accrued and any declared and unpaid dividends shall be paid at the election of the holders of a majority of the outstanding shares of Series A Stock, voting as a separate class, in cash or in Common Stock (at the Common Stock's fair market value, determined by the Board as of the date of such conversion).

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

(n) **Reservation of Stock Issuable Upon Conversion.** The Company shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of the shares of the Preferred Stock, such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of the Preferred Stock. If at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Preferred Stock, the Company will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purpose.

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

delivery, with verification of receipt. All notices shall be addressed to each holder of record at the address of such holder appearing on the books of the Company.

(p) **Payment of Taxes.** The Company will pay all taxes (other than taxes based upon income) and other governmental charges that may be imposed with respect to the issue or delivery of shares of Common Stock upon conversion of shares of Preferred Stock, excluding any tax or other charge imposed in connection with any transfer involved in the issue and delivery of shares of Common Stock in a name other than that in which the shares of Preferred Stock so converted were registered.

**6. NO REISSUANCE OF PREFERRED STOCK.**

No shares of Preferred Stock acquired by the Company by reason of redemption, purchase, conversion or otherwise shall be reissued.

**7. REDEMPTION.**

The Preferred Stock is not redeemable at the option of the holder.

**E.** The rights, preferences, privileges, restrictions and other matters relating to the Common Stock are as follows:

**1. DIVIDEND RIGHTS.** Subject to the prior rights of holders of all classes of stock at the time outstanding having prior rights as to dividends, and subject to approval pursuant to Section 2(b)(viii) of Article IV(D) hereof, the holders of the Common Stock shall be entitled to receive, when, as and if declared by the Board of Directors, out of any assets of this corporation legally available therefor, any dividends as may be declared from time to time by the Board of Directors.

**2. LIQUIDATION RIGHTS.** Upon the liquidation, dissolution or winding up of this Company, the assets of this Company shall be distributed as provided in Section 3 of Article IV(D) hereof.

**3. REDEMPTION.** The Common Stock is not redeemable at the option of the holder.

**4. VOTING RIGHTS.** The holder of each share of Common Stock shall have the right to one vote for each such share, and shall be entitled to notice of any stockholders' meeting in accordance with the Bylaws of this Company, and shall be entitled to vote upon such matters and in such manner as may be provided by law. Subject to approval by the holders of Preferred Stock pursuant to Section 2(b)(ii) of Article IV(D), 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 stock of this corporation entitled to vote, irrespective of the provisions of Section 242(b)(2) of the DGCL.

## V.

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

B. To the fullest extent permitted by applicable law, the Company is authorized to provide indemnification of, and advancement of expenses to, directors, officers, employees, other agents of the Company and any other persons to which the DGCL permits the Company to provide indemnification.

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

D. A director of the Company shall not be personally liable to the Company 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 Company 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 DGCL, or (iv) for any transaction from which the director derived any improper personal benefit. If the DGCL is amended after approval by the stockholders of this Article V to authorize Company action further eliminating or limiting the personal liability of directors then the liability of a director of the Company shall be eliminated or limited to the fullest extent permitted by the DGCL as so amended.

E. In the event that a director of the Company who is also a partner or employee of an entity that is a holder of Series A Stock and that is in the business of investing and reinvesting in other entities (each, a "Fund") acquires knowledge of a potential transaction or matter in such person's capacity as a partner or employee of the Fund and that may be a corporate opportunity for both the Company and such Fund (a "Corporate Opportunity"), then (i) such Corporate Opportunity shall belong to such Fund, (ii) such director shall, to the fullest extent permitted by law, be deemed to have fully satisfied and fulfilled his fiduciary duty to the Company and its stockholders with respect to such Corporate Opportunity, and (iii) the Company, to the fullest extent permitted by law, waives any claim that such Corporate Opportunity constituted a corporate opportunity that should have been presented to the Company or any of its affiliates; provided, however, that such director acts in good faith and such opportunity was not offered to such person solely in his or her capacity as a director of the Company.

## VI.

For the management of the business and for the conduct of the affairs of the Company, and in further definition, limitation and regulation of the powers of the Company, of its directors and of its stockholders or any class thereof, as the case may be, it is further *provided* that:

A. The management of the business and the conduct of the affairs of the Company shall be vested in its Board. The number of directors which shall constitute the whole Board shall be fixed by the Board in the manner provided in the Bylaws, subject to any restrictions which may be set forth in this Second Amended and Restated Certificate of Incorporation.

**B.** The Board is expressly empowered to adopt, amend or repeal the Bylaws of the Company. The stockholders shall also have the power to adopt, amend or repeal the Bylaws of the Company; *provided however*, that, in addition to any vote of the holders of any class or series of stock of the Company required by law or by this Second Amended and Restated Certificate of Incorporation, the affirmative vote of the holders of a majority of the voting power of all of the then-outstanding shares of the capital stock of the Company entitled to vote generally in the election of directors, voting together as a single class, shall be required to adopt, amend or repeal any provision of the Bylaws of the Company.

**C.** The directors of the Company need not be elected by written ballot unless the Bylaws so provide. The number of directors of this corporation shall be determined in the manner set forth in the Bylaws of this corporation.

\* \* \* \*

**FIVE:** This Second Amended and Restated Certificate of Incorporation has been duly approved by the Board of the Company.

**SIX:** This Second Amended and Restated Certificate of Incorporation was approved by the holders of the requisite number of shares of said corporation in accordance with Section 228 of the DGCL. This Second Amended and Restated Certificate of Incorporation has been duly adopted in accordance with the provisions of Sections 242 and 245 of the DGCL by the stockholders of the Company.

[Remainder of page intentionally left blank.]

**IN WITNESS WHEREOF, VALUESCOUT, INC.** has caused this Second Amended and Restated Certificate of Incorporation to be signed by its President this 3<sup>rd</sup> day of September, 2010.

**VALUESCOUT, INC.**

/s/ Jasper Malcolmson

Jasper Malcolmson

President