

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	MERGER		
EFFECTIVE DATE:	06/23/2009		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Tiny Prints, Inc.		06/22/2009	CORPORATION: CALIFORNIA
RECEIVING PARTY DATA			
Name:	Tiny Prints, Inc.		
Street Address:	884 Hermosa Court, Suite 100		
City:	Sunnyvale		
State/Country:	CALIFORNIA		
Postal Code:	94085		
Entity Type:	CORPORATION: DELAWARE		
PROPERTY NUMBERS Total: 1			
Property Type	Number	Word Mark	
Registration Number:	3629373	TINY PRINTS	
CORRESPONDENCE DATA			
Fax Number:	(650)938-5200		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
Phone:	650.988.8500		
Email:	trademarks@fenwick.com		
Correspondent Name:	Hoang-chi Truong, Esq., Fenwick & West		
Address Line 1:	801 California Street		
Address Line 2:	Silicon Valley Center		
Address Line 4:	Mountain View, CALIFORNIA 94041		
ATTORNEY DOCKET NUMBER:	26163-00070-2450		
NAME OF SUBMITTER:	Hoang-chi Truong, Esq.		
Signature:	/hoangchitruong/		

CH \$40.00 3629373

Date:

12/22/2010

Total Attachments: 24

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Delaware

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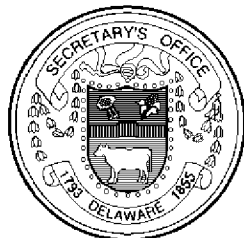
The First State

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 "TINY PRINTS, INC.", FILED IN THIS OFFICE ON THE TWENTY-SECOND DAY OF JUNE, A.D. 2009, AT 2 O'CLOCK P.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


Jeffrey W. Bullock, Secretary of State
AUTHENTICATION: 7376323

DATE: 06-22-09

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**AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF
TINY PRINTS, INC.**

Tiny Prints, Inc., a Delaware corporation, hereby certifies that:

1. The name of the Corporation is Tiny Prints, Inc. The date of filing its original Certificate of Incorporation with the Secretary of State was June 16, 2009.

2. This Amended and Restated Certificate of Incorporation of the Corporation attached hereto as Exhibit "1," which is incorporated herein by this reference, and which restates, integrates and further amends the provisions of the Certificate of Incorporation of this Corporation as previously amended or supplemented, has been duly adopted by the Corporation's Board of Directors and a majority of the stockholders in accordance with Sections 242 and 245 of the Delaware General Corporation Law, with the approval of the Corporation's stockholders having been given by written consent without a meeting in accordance with Section 228 of the Delaware General Corporation Law.

IN WITNESS WHEREOF, said Corporation has caused this Amended and Restated Certificate of Incorporation to be signed by its duly authorized officer and the foregoing facts stated herein are true and correct.

Dated: June 22, 2009

Tiny Prints, Inc.

By: /s/ Edward Han

Name: Edward Han

Title: Chief Executive Officer

*State of Delaware
Secretary of State
Division of Corporations
Delivered 02:00 PM 06/22/2009
FILED 02:00 PM 06/22/2009
SRV 090636147 - 4688910 FILE
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EXHIBIT "1"

AMENDED AND RESTATED CERTIFICATE OF INCORPORATION

OF

TINY PRINTS, INC.

ARTICLE I: NAME

The name of the Corporation is Tiny Prints, Inc.

ARTICLE II: REGISTERED AGENT

The address of the registered office of the Corporation in the State of Delaware is 3500 South Dupont Highway, City of Dover, County of Kent, Delaware 19901. The name of the registered agent of the Corporation at that address is Incorporating Services, Ltd.

ARTICLE III: PURPOSE

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

ARTICLE IV: AUTHORIZED SHARES

This Corporation is authorized to issue two (2) classes of shares, designated "Common Stock" and "Preferred Stock." The total number of shares of Common Stock that the Corporation is authorized to issue is 52,000,000 shares, par value \$0.00001 per share, 40,000,000 of which shall be designated as "Series 1 Common Stock" and 12,000,000 of which shall be designated as "Series 2 Common Stock". The total number of shares of Preferred Stock that the Corporation is authorized to issue is 12,750,600 shares, all of which, par value \$0.00001 per share, shall be designated "Series A Preferred Stock". Each share of Series A Preferred Stock shall be referred to as a "Series A Share" and all the shares of Series A Preferred Stock shall be collectively referred to as the "Series A Shares."

ARTICLE V: TERMS OF CLASSES AND SERIES

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 V, the following definitions apply:

1.1 "Applicable Liquidation Amount" means the aggregate amount that the holders of Series 1 Common Stock (excluding shares issued or issuable upon conversion of the Preferred Stock) would be entitled to receive upon any liquidation, dissolution or winding up of the Corporation (whether voluntary or involuntary) of the available fund and assets if, in lieu of Section 3 hereof, (i) the holders of outstanding shares, if any, of Preferred Stock other than the Series A Preferred Stock were entitled to be paid the amounts then set forth in Section 3 hereof (as may be amended from time to time) (assuming the holders of Series A Preferred Stock were

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solely entitled to be paid the Assumed Series A Amount), (ii) each holder of Series A Preferred Stock were solely entitled to be paid the Assumed Series A Amount and (iii) the Series 1 Common Stock and Series 2 Common Stock were entitled to be paid the amounts then set forth in Section 3 hereof (as may be amended from time to time) assuming the holders of Series A Preferred Stock were to receive the Assumed Series A Amount.

1.2 “Applicable Payment Amount” means the amount of the available funds and assets in such liquidation, dissolution or winding up of the Corporation equal to the lesser of (i) the difference between the Applicable Liquidation Amount and Series 1 Common Stock Liquidation Amount and (ii) the aggregate amount payable to the Series 2 Common Stock pursuant to Section 3.1.

1.3 “Applicable Share Amount” means the aggregate number of additional shares of Series 1 Common Stock that the holders of Series A Preferred Stock receive pursuant to the IPO Participation Payment divided by the number of shares of Series 2 Common Stock outstanding prior to the calculation set forth in Section 5.8(ii).

1.4 “Assumed Series A Amount” means the amount due to the holders of Series A Preferred Stock under Section 3 hereof (as may be amended from time to time) assuming each holder of Series A Preferred Stock were solely entitled to be paid an amount in cash equal to the greater of (i) the aggregate Liquidation Value of all Series A Shares held by such holder (plus (subject to Section 2.3) all accrued and unpaid dividends thereon, if any), paid before any distribution or payment is made upon any Junior Securities and (ii) the amount which such holder of Series A Preferred Stock would be entitled to receive upon such liquidation, dissolution or winding up if all of such holder’s Series A Preferred Stock (and all other shares of Series A Preferred Stock) were converted into Conversion Stock immediately prior to such event (plus (subject to Section 2.3) an additional amount equal to all accrued and unpaid dividends on such holder’s Series A Preferred Stock, if any), paid pari passu with any distribution or payment upon the Series 1 Common Stock and Series 2 Common Stock (each on an as-if converted to Series 1 Common Stock basis).

1.5 “Change in Ownership” means any sale, transfer or issuance or series of sales, transfers and/or issuances of shares of the Corporation’s capital stock by the Corporation or any holders thereof which results the holders of Common Stock and Series A Preferred Stock as of the closing under the Recapitalization Agreement, ceasing to own more than 50% of the Corporation’s Series 1 Common Stock (assuming conversion of the Series A Preferred Stock and Series 2 Common Stock) at the time of such sale, transfer or issuance or series of sales, transfers and/or issuances.

1.6 “Common Stock” means the Corporation’s Series 1 Common Stock and Series 2 Common Stock and any capital stock of any class of the Corporation hereafter authorized which is not limited to a fixed sum or percentage of par or stated value in respect to the rights of the holders thereof to participate in dividends or in the distribution of assets upon any liquidation, dissolution or winding up of the Corporation.

1.7 “Common Stock Deemed Outstanding” means, at any given time, the number of shares of Series 1 Common Stock outstanding at such time, plus the number of shares of Series 1 Common Stock issuable upon conversion of Series 2 Common Stock, plus the

number of shares of Common Stock issuable upon conversion of Preferred Stock outstanding at such time, plus the number of shares of Common Stock (on an as-if converted to Series 1 Common Stock basis) subject to Options or Convertible Securities outstanding at such time (whether or not the Options or Convertible Securities are actually exercisable at such time).

1.8 "Conversion Stock" means shares of the Corporation's Series 1 Common Stock, par value \$0.00001 per share; provided that if there is a change such that the securities issuable upon conversion of the Series A Preferred Stock are issued by an entity other than the Corporation or there is a change in the type or class of securities so issuable, then the term "Conversion Stock" shall mean one share of the security issuable upon conversion of the Series A Preferred Stock if such security is issuable in shares, or shall mean the smallest unit in which such security is issuable if such security is not issuable in shares.

1.9 "Convertible Securities" means any stock or securities (other than Options) directly or indirectly convertible into or exchangeable for Series 1 Common Stock.

1.10 "Equity Incentive Plan" means the Corporation's 2008 Stock Option Plan and any employee option or stock incentive plan that may be adopted by the Board from time to time, pursuant to which the Corporation may grant Series 1 Common Stock and/or options to purchase Series 1 Common Stock to officers, directors, employees and consultants of the Corporation.

1.11 "Fundamental Change" means (a) any sale or transfer of more than 50% of the assets of the Corporation and its Subsidiaries on a consolidated basis (measured either by book value in accordance with generally accepted accounting principles consistently applied or by fair market value determined in the reasonable good faith judgment of the Corporation's Board of Directors) in any transaction or series of transactions (other than sales in the ordinary course of business consistent with past practice) and (b) any merger or consolidation to which the Corporation is a party, except for a merger in which the Corporation is the surviving corporation, the terms and relative priorities of the Series A Preferred Stock are not changed and the Series A Preferred Stock is not exchanged for cash, securities or other property, and after giving effect to such merger, the holders of Common Stock and Series A Preferred Stock as of the closing under the Recapitalization Agreement shall continue to own more than 50% of the Corporation's Series 1 Common Stock (assuming conversion of the Series A Preferred Stock and Series 2 Common Stock).

1.12 "Intellectual Property Rights" means any and all intellectual and proprietary rights and rights in confidential information of every kind and description anywhere in the world, including all (i) patents, patent applications, patent disclosures and inventions, (ii) internet domain names, trademarks, service marks, trade dress, trade names, logos and corporate names and registrations and applications for registration thereof together with all of the goodwill associated therewith, (iii) copyrights (registered or unregistered) and copyrightable works and registrations and applications for registration thereof, (iv) mask works and registrations and applications for registration thereof, (v) computer software, data, data bases and documentation thereof, (vi) trade secrets and other confidential information (including ideas, formulas, compositions, inventions (whether patentable or unpatentable and whether or not reduced to practice), know-how, manufacturing and production processes and techniques, research and development information, drawings, specifications, designs, plans, proposals,

technical data, copyrightable works, financial and marketing plans and customer and supplier lists and information), (vii) other intellectual property rights and (viii) copies and tangible embodiments thereof (in whatever form or medium).

1.13 "Investor Cash Inflows" means (without duplication) the aggregate per share amount of cash proceeds and (in the case of a Fundamental Change or Change in Ownership) the aggregate per share fair market value of any freely and immediately tradeable public company securities that the Purchasers are entitled to receive (and actually received) in connection with a Liquidity Event in respect of the Series A Shares acquired by the Purchasers pursuant to the Recapitalization Agreement. For the avoidance of doubt, Investor Cash Inflows shall not include any accrued and unpaid dividends in respect of the Series A Preferred Stock. For purposes hereof, the fair market value per share of any securities to be delivered to the holders of Series A Preferred Stock in connection with any Fundamental Change or Change in Ownership shall be the Market Price thereof as of the closing date of any such transaction or, at the election of the holders of at least 60% of the outstanding Series A Preferred Stock, the value thereof as may be provided or determined in the definitive agreement(s) entered into in connection with any such Fundamental Change or Change in Ownership. In the case of a Public Offering, "Investor Cash Inflows" includes the value of the Conversion Stock held by the Purchasers immediately prior to the consummation of the Public Offering on a per share basis, based on the price per share of Series 1 Common Stock to be paid by the public in such offering.

1.14 "Investor Cash Outflows" means the per share purchase price paid by the Purchasers for the shares of Series A Preferred Stock acquired by the Purchasers pursuant to the Recapitalization Agreement (as proportionately adjusted for subsequent stock splits, combinations and dividends affecting the Series A Preferred Stock).

1.15 "Investor Rights Agreement" means that certain Investor Rights Agreement dated as of April 3, 2008 by and among the Corporation and the other Persons named therein, as such agreement may be amended or modified from time to time in accordance with its terms.

1.16 "Junior Securities" means any capital stock or other equity securities of the Corporation, except for the Series A Preferred Stock.

1.17 "Liquidation Value" of any Series A Share as of any particular date shall be equal to \$4.627268 (as proportionately adjusted for subsequent stock splits, stock combinations and stock dividends affecting the Series A Shares). For the avoidance of doubt, no dividend paid on any Series A Share shall constitute an offset to or credit against such Series A Share's Liquidation Value.

1.18 "Market Price" of any security means the closing price of such security on the principal securities exchange on which such security may at the time be listed, or, if there has been no sales on any such exchange on any day, the average of the highest bid and lowest asked prices on such exchange at the end of such day, or, if on any day such security is not so listed, the closing price of such security in the NASDAQ System as of 4:00 P.M., New York time, or, if on any day such security is not quoted in the NASDAQ System, the average of the highest bid and lowest asked prices on such day in the domestic over-the-counter market as reported by the National Quotation Bureau, Incorporated, or any similar successor organization, in each such

case averaged over a period of 21 days consisting of the day as of which "Market Price" is being determined and the 20 consecutive business days prior to such day. If at any time such security is not listed on any securities exchange or quoted in the NASDAQ System or the over-the-counter market, the "Market Price" shall be the fair value thereof determined jointly by the Board of Directors of the Corporation and the holders of at least 60% of the Series A Preferred Stock.

1.19 "Non-Qualified Liquidity Event" means any Liquidity Event which is not a Qualified Liquidity Event.

1.20 "Options" means any rights, warrants or options to subscribe for or purchase, directly or indirectly, Series 1 Common Stock or Convertible Securities.

1.21 "Organic Change" means any recapitalization, reorganization, reclassification, consolidation, merger, sale of all or substantially all of the Corporation's assets or other transaction, in each case which is effected in such a manner that the holders of Common Stock are entitled to receive (either directly or upon subsequent liquidation) stock, securities or assets with respect to or in exchange for Common Stock, except for (i) a Qualified Liquidity Event or (ii) an event which is governed by Section 3.

1.22 "Person" means an individual, a partnership, a corporation, a limited liability company, a limited liability, an association, a joint stock company, a trust, a joint venture, an unincorporated organization and a governmental entity or any department, agency or political subdivision thereof.

1.23 "Public Offering" means any offering by the Corporation of its capital stock or equity securities to the public pursuant to an effective registration statement under the Securities Act of 1933, as then in effect, or any comparable statement under any similar federal statute then in force.

1.24 "Purchasers" has the meaning given to such term in the Recapitalization Agreement.

1.25 "Put Price" means any payment due or that may become due upon exercise of any put right in the Stockholders Agreement.

1.26 "Recapitalization Agreement" means that certain Stock Purchase and Recapitalization Agreement dated as of April 3, 2008 by and among the Corporation and the other Persons named therein, as such agreement may be amended or modified from time to time in accordance with its terms.

1.27 "Registration Agreement" means that certain Registration Agreement dated as of April 3, 2008 by and among the Corporation and the other Persons named therein, as such agreement may be amended or modified from time to time in accordance with its terms.

1.28 "Stockholders Agreement" means that certain Stockholders Agreement dated as of April 3, 2008 and amended on or about even date herewith by and among the Corporation and the other Persons named therein, as such agreement may be amended or modified from time to time in accordance with its terms.

1.29 “Subsidiary” means, with respect to any Person, any corporation, limited liability company, partnership, association or other business entity of which (i) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof, or (ii) if a limited liability company, partnership, association or other business entity, a majority of the partnership or other similar ownership interest thereof is at the time owned or controlled, directly or indirectly, by any Person or one or more Subsidiaries of that person or a combination thereof. For purposes hereof, a Person or Persons shall be deemed to have a majority ownership interest in a limited liability company, partnership, association or other business entity if such Person or Persons shall be allocated a majority of limited liability company, partnership, association or other business entity gains or losses or shall be or control the managing general partner of such limited liability company, partnership, association or other business entity.

1.30 “Wholly-Owned Subsidiary” means, with respect to any Person, a Subsidiary of which all of the outstanding capital stock or other ownership interests are owned by such Person or another Wholly-Owned Subsidiary of such Person.

2. Dividend Rights.

2.1 General Obligation. When and as declared by the Corporation’s Board of Directors and to the extent permitted under the Delaware General Corporation Law, the Corporation shall pay preferential dividends in cash to the holders of the Series A Preferred Stock as provided in this Section 2. Except as otherwise provided herein, dividends on each Series A Share shall accrue on a daily basis at the rate of 6% per annum of the sum of the Liquidation Value thereof plus all accumulated and unpaid dividends thereon from and including the date of issuance of such Series A Share to and including the first to occur of (i) the date on which the Liquidation Value of such Series A Share (plus all accrued and unpaid dividends thereon) is paid to the holder thereof in connection with the liquidation of the Corporation or the redemption or purchase of such Series A Share by the Corporation, (ii) the date on which such Series A Share is converted into shares of Conversion Stock hereunder, (iii) the date on which such share is otherwise acquired by the Corporation, or (iv) the date of consummation of a Qualified Liquidity Event. Such dividends shall accrue whether or not they have been declared and whether or not there are profits, surplus or other funds of the Corporation legally available for the payment of dividends, and such dividends shall be cumulative such that all accrued and unpaid dividends shall be fully paid or declared with funds irrevocably set apart for payment before any dividends may be declared or paid with respect to any Junior Securities. The date on which the Corporation initially issues any Series A Share shall be deemed to be its “date of issuance” regardless of the number of times transfer of such Series A Share is made on the stock records maintained by or for the Corporation and regardless of the number of certificates which may be issued to evidence such Series A Share.

2.2 Dividend Reference Dates. To the extent not paid on December 31 of each year (the “Dividend Reference Dates”), beginning December 31, 2008, all dividends which have accrued on each Series A Share outstanding during the twelve-month period (or other period in the case of the initial Dividend Reference Date) ending upon each such Dividend

Reference Date shall be accumulated and shall remain accumulated dividends with respect to such Series A Share until paid to the holder thereof.

2.3 Certain Limitations/Adjustments. If upon consummation of a Change in Ownership, Fundamental Change, Public Offering or liquidation, dissolution or winding up of the Corporation (a "Liquidity Event"), the Purchasers shall be entitled to receive (or, in the case of a Public Offering, be deemed to receive) Investor Cash Inflows that equal or exceed 3.0 times Investor Cash Outflows (or, in the case of a Public Offering, that equal or exceed 4.0 times Investor Cash Outflows), taking into account dilution from all restricted stock and stock options that may become vested in connection with any such transaction and prior to the exercise of any call option applicable to shares of capital stock held by the Purchasers (any such Liquidity Event, a "Qualified Liquidity Event"), then the aggregate amount of accrued and unpaid dividends on each share of Series A Preferred Stock as of immediately prior to the consummation of such Qualified Liquidity Event shall be deemed to be zero. For the avoidance of doubt, all references in this Certificate of Incorporation at the time of a Liquidity Event to accrued and unpaid dividends with respect to any Series A Share shall be deemed to refer to the accrued and unpaid dividends with respect to such Series A Share as adjusted, if applicable, pursuant to this paragraph

2.4 Distribution of Partial Dividend Payments. Except as otherwise provided herein, if at any time the Corporation pays less than the total amount of dividends then accrued with respect to the Series A Preferred Stock, such payment shall be distributed pro rata among the holders thereof based upon the aggregate accrued but unpaid dividends on the Series A Shares.

2.5 Participating Dividends. In addition to any other dividends accruing or declared hereunder, in the event that the Corporation declares or pays any dividends upon any of the Common Stock (whether payable in cash, securities or other property), other than dividends payable solely in shares of Common Stock issued upon the Corporation's outstanding shares of Common Stock, the Corporation shall also declare and pay to the holders of the Series A Preferred Stock at the same time that it declares and pays such dividends to the holders of such Common Stock, the dividends which would have been declared and paid with respect to the Common Stock issuable upon conversion of the Series A Preferred Stock had all of the outstanding Series A Preferred Stock been converted immediately prior to the record date for such dividend, or if no record date is fixed, the date as of which the record holders of Common Stock entitled to such dividends are to be determined. If the holders of Series A Preferred Stock receive any dividends pursuant to this Section 2.5, then the amount of accrued and unpaid dividends that such holders would otherwise be entitled to receive pursuant to Section 2.1 above shall be reduced (but not below zero) by the amount of such dividends received pursuant to this Section 2.5.

3. Liquidation Rights. In the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, the funds and assets that may be legally distributed to the Corporation's stockholders shall be distributed to stockholders in the following manner.

3.1 Liquidation Preferences. Upon any liquidation, dissolution or winding up of the Corporation (whether voluntary or involuntary), each holder of Series A Preferred Stock

shall be entitled to be paid an amount in cash equal to the aggregate Liquidation Value of all Series A Shares held by such holder (plus (subject to Section 2.3) all accrued and unpaid dividends thereon, if any), paid before any distribution or payment is made upon any Junior Securities. If upon any such liquidation, dissolution or winding up of the Corporation the Corporation's assets to be distributed among the holders of the Series A Preferred Stock are insufficient to permit payment to such holders of the aggregate amount which they are entitled to be paid under the previous sentence, then the entire assets available to be distributed to the Corporation's stockholders shall be distributed pro rata among such holders of Series A Preferred Stock based upon the aggregate Liquidation Value (plus (subject to Section 2.3) all accrued and unpaid dividends thereon, if any) of the Series A Preferred Stock held by each such holder. If any available funds and assets remain after the payment or distribution to the holders of the Series A Preferred Stock of their full preferential amounts described above, then all such remaining available funds and assets shall be distributed ratably among the holders of the then outstanding Series 1 Common Stock, Series 2 Common Stock and Series A Preferred Stock (each on an as-if converted to Series 1 Common Stock basis) until such time as the Investor Cash Inflows of such holders of Series A Preferred Stock equal or exceed two (2) times the Investor Cash Outflows of such holders (excluding any paid or accrued and unpaid dividends on such Series A Preferred Stock but including any other payment made pursuant to the first sentence of this Section 3.1); thereafter, any available funds and assets that remain shall be distributed ratably among the holders of the then outstanding Series 1 Common Stock and Series 2 Common Stock only (each on an as-if converted to Series 1 Common Stock basis). Not less than 30 days prior to the payment date stated therein, the Corporation shall deliver written notice of any such liquidation, dissolution or winding up to each record holder of Series A Preferred Stock, setting forth in reasonable detail the amount of proceeds to be paid with respect to each Series A Share and each share of Junior Securities in connection with such liquidation, dissolution or winding up. For purposes of this Section 3.1, any Fundamental Change or Change in Ownership shall (unless otherwise determined by the holders of at least 60% of the outstanding Series A Preferred Stock) be deemed to be a liquidation, dissolution and winding up of the Corporation, and each holder of Series A Preferred Stock shall be entitled to receive in connection therewith payment from the Corporation (or the successor or purchasing entity) of an amount equal to the aggregate amount specified herein that such holders would have received upon a liquidation, dissolution and winding up of the Corporation in accordance with this Section 3.1. The value of any securities to be delivered to the holders of Series A Preferred Stock in connection with any such Fundamental Change or Change in Ownership shall be the Market Price thereof as of the closing date of any such transaction or, at the election of the holders of at least 60% of the outstanding Series A Preferred Stock, the value thereof as may be provided or determined in the definitive agreement(s) entered into in connection with any such Fundamental Change or Change in Ownership.

Notwithstanding the above, if the amount which a holder would be entitled to receive upon such liquidation, dissolution or winding up if all of such holder's Series A Preferred Stock (and all other shares of Series A Preferred Stock) were converted into Conversion Stock immediately prior to such event (plus (subject to Section 2.3) an additional amount equal to all accrued and unpaid dividends on such holder's Series A Preferred Stock, if any) and paid pari passu with any distribution or payment upon the Conversion Stock (the "Conversion Amount") is an amount greater than the amount that would be distributed to such holder if such holder did not convert such holder's Series A Preferred Stock into shares of Conversion Stock, then such holder

shall receive the Conversion Amount. If any such holder shall be deemed to have converted shares of Series A Preferred Stock into Conversion Stock pursuant to this paragraph, then such holder shall not be entitled to receive any distribution that would otherwise be made to holders of Series A Preferred Stock that have not converted (or have not been deemed to have converted) into shares of Conversion Stock.

Notwithstanding the above, if the amount that the holders of Series 1 Common Stock (excluding shares issued or issuable upon conversion of the Preferred Stock) would be entitled to receive upon such liquidation, dissolution or winding up pursuant to this Section 3.1 (the "Series 1 Common Stock Liquidation Amount") is less than the Applicable Liquidation Amount, then the per share amount otherwise to be distributed to holders of Series 2 Common Stock pursuant to this Section 3.1 shall be reduced in an aggregate amount equal to the Applicable Payment Amount, and such Applicable Payment Amount shall be distributed ratably among the holders of Series 1 Common Stock (excluding shares issued or issuable upon conversion of the Preferred Stock); provided, however, the rights of the Series 1 Common Stock specified in this Section 3.1 shall be subordinate to any senior security whether authorized herein or hereafter created, including, without limitation, any series of Preferred Stock; provided, further, this Section 3.1 shall terminate and be of no further force and effect upon the vote or written consent of the holders of a majority of the outstanding Series 2 Common Stock.

3.2 Priority of Series A Preferred Stock on Dividends and Redemptions. So long as any Series A Preferred Stock remains outstanding, without the prior written consent of the holders of at least 60% of the outstanding shares of Series A Preferred Stock, the Corporation shall not, nor shall it permit any Subsidiary to, redeem, purchase or otherwise acquire directly or indirectly any Junior Securities, nor shall the Corporation directly or indirectly pay or declare any dividend or make any distribution upon any Junior Securities, except in each case, as expressly permitted pursuant to Section 8 below.

4. Voting Rights.

4.1 Election of Directors.

(i) In the election of directors of the Corporation, the holders of the Series A Preferred Stock, voting separately as a single class to the exclusion of all other classes and series of the Corporation's capital stock and with each Series A Share entitled to one vote, shall be entitled to elect (by majority vote) two directors, each to serve on the Corporation's Board of Directors until such director's successor is duly elected by the holders of the Series A Preferred Stock or until such director is removed (by majority vote) from office by the holders of the Series A Preferred Stock. If the holders of the Series A Preferred Stock for any reason fail to elect anyone to fill any such directorship, such position shall remain vacant until such time as the holders of the Series A Preferred Stock elect a director to fill such position and shall not be filled by resolution or vote of the Corporation's Board of Directors or the Corporation's other stockholders.

(ii) In the election of directors of the Corporation, the holders of Common Stock, voting separately as a single class to the exclusion of all other classes and series of the Corporation's capital stock and on an as-if converted to Series 1 Common Stock basis, shall be entitled to elect (by majority vote) one director, to serve on the Corporation's Board of Directors

until such director's successor is duly elected by the holders of Common Stock or until such director is removed (by majority vote on an as-if converted to Series 1 Common Stock basis) from office by the holders of Common Stock. If the holders of Common Stock for any reason fail to elect anyone to fill such directorship, such position shall remain vacant until such time as the holders of Common Stock elect a director to fill such position and shall not be filled by resolution or vote of the Corporation's Board of Directors or the Corporation's other stockholders.

(iii) In the election of directors of the Corporation, the holders of the Series A Preferred Stock and the Common Stock, voting as a single class and with each share of Series A Preferred Stock and Series 2 Common Stock entitled to one vote for each share of Series 1 Common Stock issuable upon conversion of the Series A Preferred Stock and Series 2 Common Stock as of the record date for such vote or, if no record date is specified, as of the date of such vote, shall be entitled to elect (by majority vote on an as-if converted to Series 1 Common Stock basis) two directors, each to serve on the Corporation's Board of Directors until such director's successor is duly elected by the holders of the Series A Preferred Stock and Common Stock or until such director is removed (by majority vote) from office by the holders of the Series A Preferred Stock and Common Stock. If the holders of the Series A Preferred Stock and Common Stock for any reason fail to elect anyone to fill any such directorship, such position shall remain vacant until such time as the holders of the Series A Preferred Stock and Common Stock elect a director to fill such position and shall not be filled by resolution or vote of the Corporation's Board of Directors or the Corporation's other stockholders.

4.2 Other Voting Rights. The holders of the Series A Preferred Stock shall be entitled to notice of all stockholders meetings in accordance with the Corporation's Bylaws, and in addition to any circumstances in which the holders of the Series A Preferred Stock shall be entitled to vote as a separate class under the General Corporation Law of the State of Delaware, the holders of the Series A Preferred Stock shall be entitled to vote on all matters (other than the election of the director to be elected by holders of Common Stock only pursuant to Section 4.1) submitted to the stockholders for a vote together with the holders of the Common Stock voting together as a single class with each share of Common Stock and Series A Preferred Stock entitled to one vote for each share of Series 1 Common Stock issuable upon conversion of the Series 2 Common Stock and Series A Preferred Stock as of the record date for such vote or, if no record date is specified, as of the date of such vote. Except as required by law, the Series 1 Common Stock and Series 2 Common Stock shall vote together as a single voting group on all matters on an as-if converted to Series 1 Common Stock basis submitted to a vote or for the consent of the holders of Common Stock.

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

5.1 Conversion Procedure.

(i) At any time and from time to time, any holder of Series A Preferred Stock may convert all or any portion of the Series A Preferred Stock held by such holder into a number of shares of Conversion Stock computed by multiplying the number of Series A Shares to be converted by \$4.627268 and dividing the result by the Conversion Price then in effect.

(ii) Except as otherwise provided herein, each conversion of Series A Preferred Stock shall be deemed to have been effected as of the close of business on the date on which the certificate or certificates representing the Series A Preferred Stock to be converted have been surrendered for conversion at the principal office of the Corporation. At the time any such conversion has been effected, the rights of the holder of the Series A Shares converted as a holder of Series A Preferred Stock shall cease and the Person or Persons in whose name or names any certificate or certificates for shares of Conversion Stock are to be issued upon such conversion shall be deemed to have become the holder or holders of record of the shares of Conversion Stock represented thereby.

(iii) Notwithstanding any other provision hereof, if a conversion of Series A Preferred Stock is to be made in connection with a Public Offering, a Change in Ownership, a Fundamental Change or other transaction affecting the Corporation or a holder of Series A Preferred Stock, the conversion of any Series A Shares may, at the election of the holder thereof, be conditioned upon the consummation of such event or transaction, in which case such conversion shall not be deemed to be effective until such event or transaction has been consummated.

(iv) As soon as possible after a conversion has been effected (but in any event within three (3) business days in the case of subparagraph (a) below), the Corporation shall deliver to the converting holder:

(a) a certificate or certificates representing the number of shares of Conversion Stock issuable by reason of such conversion in such name or names and such denomination or denominations as the converting holder has specified;

(b) payment of the amount payable under subparagraph (viii) below with respect to such conversion;

(c) a certificate representing any Series A Shares which were represented by the certificate or certificates delivered to the Corporation in connection with such conversion but which were not converted; and

(d) cash in the amount of all accrued and unpaid dividends on all outstanding Series A Shares, but only if such conversion is a mandatory conversion effected under Section 5.7 in connection with any Public Offering which is a Non-Qualified Liquidity Event.

(v) The issuance of certificates for shares of Conversion Stock upon conversion of Series A Preferred Stock shall be made without charge to the holders of such Series A Preferred Stock for any issuance tax in respect thereof or other cost incurred by the Corporation in connection with such conversion and the related issuance of shares of Conversion Stock. Upon conversion of each Series A Share, the Corporation shall take all such actions as are necessary in order to ensure that the Conversion Stock issuable with respect to such conversion shall be validly issued, fully paid and nonassessable, free and clear of all taxes, liens, charges and encumbrances with respect to the issuance thereof (other than liens, charges and encumbrances imposed by the holder thereof or by changes in applicable corporate law).

(vi) The Corporation shall not close its books against the transfer of Series A Preferred Stock or of Conversion Stock issued or issuable upon conversion of Series A Preferred Stock in any manner which interferes with the timely conversion of Series A Preferred Stock. The Corporation shall reasonably assist and cooperate with any holder of Series A Shares required to make any governmental filings or obtain any governmental approval prior to or in connection with any conversion of Series A Shares hereunder (including, without limitation, making any filings required to be made by the Corporation and the Corporation shall pay all filing fees and expenses payable by the Corporation or any such holder in connection therewith).

(vii) The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Conversion Stock, solely for the purpose of issuance upon the conversion of the Series A Preferred Stock, such number of shares of Conversion Stock issuable upon the conversion of all outstanding Series A Preferred Stock. All shares of Conversion Stock which are so issuable shall, when issued, be duly and validly issued, fully paid and nonassessable and free from all taxes, liens and charges (other than liens, charges and encumbrances imposed by the holder thereof or by changes in applicable corporate law). The Corporation shall take all such actions as may be reasonably necessary to assure that all such shares of Conversion Stock may be so issued without violation of any applicable law or governmental regulation or any requirements of any domestic securities exchange upon which shares of Conversion Stock may be listed (except for official notice of issuance which shall be immediately delivered by the Corporation upon each such issuance). The Corporation shall not take any action which would cause the number of authorized but unissued shares of Conversion Stock to be less than the number of such shares required to be reserved hereunder for issuance upon conversion of the Series A Preferred Stock.

(viii) If any fractional interest in a share of Conversion Stock would, except for the provisions of this subparagraph, be delivered upon any conversion of the Series A Preferred Stock, the Corporation, in lieu of delivering the fractional share therefor, shall pay an amount to the holder thereof equal to the Market Price of such fractional interest as of the date of conversion.

5.2 Conversion Price.

(i) The initial Conversion Price shall be \$4.627268. In order to prevent dilution of the conversion rights granted under this Section 5, the Conversion Price shall be subject to adjustment from time to time pursuant to this Section 5.

(ii) If and whenever on or after the original date of issuance of the Series A Preferred Stock the Corporation issues or sells, or in accordance with Section 5.3 is deemed to have issued or sold, any shares of its Common Stock for a consideration per share less than the Conversion Price in effect immediately prior to the time of such issue or sale, then immediately upon such issue or sale or deemed issue or sale the Conversion Price shall be reduced to the Conversion Price determined by dividing (a) the sum of (1) the product derived by multiplying the Conversion Price in effect immediately prior to such issue or sale by the number of shares of Common Stock Deemed Outstanding immediately prior to such issue or sale, plus (2) the consideration, if any, received by the Corporation upon such issue or sale, by (b) the number of shares of Common Stock Deemed Outstanding immediately after such issue or sale.

(iii) Notwithstanding the foregoing, there shall be no adjustment in the Conversion Price as a result of any issue or sale (or deemed issue or sale) of: (A) up to an aggregate of 3,646,860 shares of the Corporation's Series 1 Common Stock or Series 1 Common Stock issued upon the exercise of options to purchase Common Stock granted to employees, directors or service providers of the Corporation and its Subsidiaries pursuant to any Equity Incentive Plan (including in such number of shares on an as-exercised for Series 1 Common Stock basis the maximum number of shares issued or issuable pursuant to any grant or award exercised after the time the Corporation first issues any Series A Share and the maximum number of shares issued or issuable pursuant to any grant or award outstanding at the time the Corporation first issues any Series A Share) (as such number of shares is proportionately adjusted for subsequent stock splits, combinations and dividends affecting the Common Stock); (B) up to an aggregate of 1,215,620 shares of Series 1 Common Stock or warrants to purchase Series 1 Common Stock to real property or equipment leasing companies, commercial banks, suppliers or third party service providers in connection with arrangements approved by the Board (including in such number of shares on an as-exercised for Series 1 Common Stock basis the maximum number of shares issued or issuable under any such warrant and as such number of shares is proportionately adjusted for subsequent stock splits, combinations and dividends affecting the Common Stock); (C) Series 1 Common Stock issued or issuable in a public offering in connection with which all outstanding shares of Series A Preferred Stock will be converted to Series 1 Common Stock; (D) Series 1 Common Stock issuable upon the conversion of the Series A Preferred Stock or the Series 2 Common Stock; and (E) shares of Common Stock, options or convertible securities issued by reason of a dividend, stock split or other distribution on shares of Common Stock that is covered by Section 5.4 or Section 5.5. Any options, warrants or convertible securities exercisable for Common Stock that expire or are terminated unexercised or any restricted Common Stock repurchased by the Corporation at cost shall not be counted toward the maximum numbers referred to in the preceding clauses (A) and (B) unless and until such securities are re-granted as new equity grants.

(iv) The Conversion Price shall not be reduced at such time if the amount of such reduction would be less than \$0.01, but any such amount shall be carried forward, and a reduction will be made with respect to such amount at the time of, and together with, any subsequent reduction which, together with such amount and any other amounts so carried forward, equal \$0.01 or more in the aggregate.

5.3 Effect on Conversion Price of Certain Events. For purposes of determining the adjusted Conversion Price under this Section 5.3, the following shall be applicable:

(i) Issuance of Rights or Options. If the Corporation in any manner grants or sells any Options and the price per share for which Series 1 Common Stock is issuable upon the exercise of such Options, or upon conversion or exchange of any Convertible Securities issuable upon exercise of such Options, is less than the Conversion Price in effect immediately prior to the time of the granting or sale of such Options, then the total maximum number of shares of Series 1 Common Stock issuable upon the exercise of such Options or upon conversion or exchange of the total maximum amount of such Convertible Securities issuable upon the exercise of such Options shall be deemed to be outstanding and to have been issued and sold by the Corporation at the time of the granting or sale of such Options for such price per share. For purposes of this subparagraph, the "price per share for which Series 1 Common Stock is

issuable" shall be determined by dividing (A) the total amount, if any, received or receivable by the Corporation as consideration for the granting or sale of such Options, plus the minimum aggregate amount of additional consideration payable to the Corporation upon exercise of all such Options, plus in the case of such Options which relate to Convertible Securities, the minimum aggregate amount of additional consideration, if any, payable to the Corporation upon the issuance or sale of such Convertible Securities and the conversion or exchange thereof, by (B) the total maximum number of shares of Series 1 Common Stock issuable upon the exercise of such Options or upon the conversion or exchange of all such Convertible Securities issuable upon the exercise of such Options. No further adjustment of the Conversion Price shall be made when Convertible Securities are actually issued upon the exercise of such Options or when Common Stock is actually issued upon the exercise of such Options or the conversion or exchange of such Convertible Securities.

(ii) Issuance of Convertible Securities. If the Corporation in any manner issues or sells any Convertible Securities and the price per share for which Series 1 Common Stock is issuable upon conversion or exchange thereof is less than the Conversion Price in effect immediately prior to the time of such issue or sale, then the maximum number of shares of Series 1 Common Stock issuable upon conversion or exchange of such Convertible Securities shall be deemed to be outstanding and to have been issued and sold by the Corporation at the time of the issuance or sale of such Convertible Securities for such price per share. For the purposes of this subparagraph, the "price per share for which Series 1 Common Stock is issuable" shall be determined by dividing (A) the total amount received or receivable by the Corporation as consideration for the issue or sale of such Convertible Securities, plus the minimum aggregate amount of additional consideration, if any, payable to the Corporation upon the conversion or exchange thereof, by (B) the total maximum number of shares of Series 1 Common Stock issuable upon the conversion or exchange of all such Convertible Securities. No further adjustment of the Conversion Price shall be made when Series 1 Common Stock is actually issued upon the conversion or exchange of such Convertible Securities, and if any such issue or sale of such Convertible Securities is made upon exercise of any Options for which adjustments of the Conversion Price had been or are to be made pursuant to other provisions of this Section 5, no further adjustment of the Conversion Price shall be made by reason of such issue or sale.

(iii) Change in Option Price or Conversion Rate. If the purchase price provided for in any Options, the additional consideration, if any, payable upon the conversion or exchange of any Convertible Securities or the rate at which any Convertible Securities are convertible into or exchangeable for Series 1 Common Stock changes at any time, the Conversion Price in effect at the time of such change shall be immediately adjusted to the Conversion Price which would have been in effect at such time had such Options or Convertible Securities still outstanding provided for such changed purchase price, additional consideration or conversion rate, as the case may be, at the time initially granted, issued or sold. For purposes of this Section 5.3, if the terms of any Option or Convertible Security which was outstanding as of the date of issuance of the Series A Preferred Stock are changed in the manner described in the immediately preceding sentence, then such Option or Convertible Security and the Common Stock deemed issuable upon exercise, conversion or exchange thereof shall be deemed to have been issued as of the date of such change; provided that no such change shall at any time cause the Conversion Price hereunder to be increased.

(iv) Treatment of Expired Options and Unexercised Convertible Securities.

Upon the expiration of any Option or the termination of any right to convert or exchange any Convertible Security without the exercise of any such Option or right, the Conversion Price then in effect hereunder shall be adjusted immediately to the Conversion Price which would have been in effect at the time of such expiration or termination had such Option or Convertible Security, to the extent outstanding immediately prior to such expiration or termination, never been issued. For purposes of this Section 5.3, the expiration or termination of any Option or Convertible Security which was outstanding as of the date of issuance of the Series A Preferred Stock shall not cause the Conversion Price hereunder to be adjusted unless, and only to the extent that, a change in the terms of such Option or Convertible Security caused it to be deemed to have been issued after the date of issuance of the Series A Preferred Stock.

(v) Calculation of Consideration Received.

If any Common Stock, Option or Convertible Security is issued or sold or deemed to have been issued or sold for cash, the consideration received therefor shall be deemed to be the amount received by the Corporation therefor (net of discounts, commissions and related expenses). If any Common Stock, Option or Convertible Security is issued or sold for a consideration other than cash, the amount of the consideration other than cash received by the Corporation shall be the fair value of such consideration, except where such consideration consists of securities, in which case the amount of consideration received by the Corporation shall be the Market Price thereof as of the date of receipt. If any Common Stock, Option or Convertible Security is issued to the owners of the non-surviving entity in connection with any merger in which the Corporation is the surviving corporation, the amount of consideration therefor shall be deemed to be the fair value of the portion of the net assets of the non-surviving entity that is attributable to such Common Stock, Option or Convertible Security, as the case may be. The fair value of any consideration or net assets other than cash and securities (and, if applicable, the portions thereof attributable to any such stock or securities) shall be determined jointly by the holders of a majority of the outstanding Common Stock and the holders of at least 60% of the outstanding Series A Preferred Stock (voting together as a single class, and not separate series, and on an as-if converted to Series 1 Common Stock basis).

(vi) Integrated Transactions.

In case any Option is issued in connection with the issue or sale of other securities of the Corporation, together comprising one integrated transaction in which no specific consideration is allocated to such Option by the parties thereto, the Option shall be deemed to have been issued for a consideration of \$.01.

(vii) Record Date.

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

5.4 Subdivision or Combination of Common Stock.

If the Corporation at any time subdivides (by any stock split, stock dividend, recapitalization or otherwise) one or more classes of its outstanding shares of Common Stock into a greater number of shares, the Conversion Price in effect immediately prior to such subdivision shall be proportionately

reduced, and if the Corporation at any time combines (by reverse stock split or otherwise) one or more classes of its outstanding shares of Common Stock into a smaller number of shares, the Conversion Price in effect immediately prior to such combination shall be proportionately increased.

5.5 Reorganization, Reclassification, Consolidation, Merger or Sale. Prior to the consummation of any Organic Change, the Corporation shall make appropriate provisions (in form and substance satisfactory to the holders of at least 60% of the Series A Preferred Stock then outstanding) to ensure that the Series A Preferred Stock shall not be cancelled or retired as a result of such Organic Change and each of the holders of the Series A Preferred Stock shall thereafter have the right to acquire and receive, in lieu of or in addition to (as the case may be) the shares of Conversion Stock immediately theretofore acquirable and receivable upon the conversion of such holder's Series A Preferred Stock, such shares of stock, securities or assets as such holder would have received in connection with such Organic Change if such holder had converted its Series A Preferred Stock immediately prior to such Organic Change. In each such case, the Corporation shall also make appropriate provisions (in form and substance satisfactory to the holders of at least 60% of the Series A Preferred Stock then outstanding) to ensure that the provisions of this Section 5 and Sections 6 and 7 hereof shall thereafter be applicable to the Series A Preferred Stock (including, in the case of any such consolidation, merger or sale in which the successor entity or purchasing entity is other than the Corporation, an appropriate adjustment of the Conversion Price, and a corresponding appropriate adjustment in the number of shares of Conversion Stock acquirable and receivable upon conversion of Series A Preferred Stock, if the value for Conversion Stock so reflected by such consolidation, merger or sale is less than the Conversion Price in effect immediately prior to such consolidation, merger or sale). The Corporation shall not effect any such consolidation, merger or sale, unless prior to the consummation thereof, the successor entity (if other than the Corporation) resulting from consolidation or merger or the entity purchasing such assets assumes by written instrument (in form and substance satisfactory to the holders of at least 60% of the Series A Preferred Stock then outstanding), the obligation to deliver to each such holder such shares of stock, securities or assets as, in accordance with the foregoing provisions, such holder may be entitled to acquire.

5.6 Notices.

(i) Promptly following any adjustment of the Conversion Price, the Corporation shall give written notice thereof to all holders of Series A Preferred Stock, setting forth in reasonable detail and certifying the calculation of such adjustment.

(ii) The Corporation shall give written notice to all holders of Series A Preferred Stock at least 20 days prior to the date on which the Corporation closes its books or takes a record (a) with respect to any dividend or distribution upon Common Stock, (b) with respect to any pro rata subscription offer to holders of Common Stock or (c) for determining rights to vote with respect to any Organic Change, dissolution or liquidation.

(iii) The Corporation shall also give written notice to the holders of Series A Preferred Stock at least 20 days prior to the date on which any Organic Change shall take place.

5.7 Mandatory Conversion. If the Corporation effects a firm commitment underwritten Public Offering of shares of its Series 1 Common Stock which is underwritten by a

nationally recognized investment bank in which (i) the aggregate price paid by the public for the shares shall be at least \$50,000,000 and (ii) the price per share paid by the public for such shares shall be equal to or greater than \$13.8818 (as proportionately adjusted for subsequent stock splits, combinations and dividends affecting the Series 1 Common Stock) (a "Qualified Public Offering"), then each outstanding share of Series A Preferred Stock shall automatically be converted into a number of shares of Conversion Stock computed by dividing \$4.627268 by the Conversion Price then in effect. Such mandatory conversion shall only be effected at the time of and subject to the closing of the sale of such shares pursuant to such Qualified Public Offering and upon written notice of such mandatory conversion delivered to all holders of Series A Preferred Stock at least seven days prior to such closing.

5.8 Public Offering Conversion.

(i) Simultaneously with the conversion of each Series A Share into Conversion Stock in connection with or in contemplation of a Public Offering, each holder of a Series A Share, in addition to the shares of Conversion Stock described above, shall also, be entitled to receive a distribution equal to the Liquidation Value of any Series A Share in the form of an adjustment to the then applicable Conversion Price for each such Series A Share immediately prior to the consummation of such Public Offering such that such holder of a Series A Share receives upon conversion of such share, in addition to the number of shares of Conversion Stock otherwise issuable pursuant to this Section 5, an additional number of shares of Conversion Stock equal to the Liquidation Value of any Series A Share based on the price to the public of shares of Conversion Stock set forth in the final prospectus for such offering (the "IPO Participation Payment"); provided, however, that in the event the aggregate proceeds payable to any holder of Series A Shares pursuant to the IPO Participation Payment and the Investor Cash Inflows (prior to the exercise of any call option applicable to shares of capital stock held by such holders) shall exceed two (2) times the aggregate amount of such holder's Investor Cash Outflows (excluding any paid or accrued and unpaid dividends on the Series A Preferred Stock), then the IPO Participation Payment of such holder shall be reduced to an amount which would result in the aggregate proceeds payable to such holder being equal to two (2) times such holder's Investor Cash Outflows (excluding any paid or accrued and unpaid dividends on the Series A Preferred Stock) (except that in no event shall such IPO Participation Payment be reduced to a negative amount).

(ii) In the event of an adjustment to the applicable Conversion Price for each Series A Share as contemplated by Section 5.8(i), the applicable Conversion Price for the Series 2 Common Stock shall be simultaneously adjusted such that holders of Series 2 Common Stock receive upon conversion of such shares to Series 1 Common Stock a reduction in the number of shares of Series 1 Common Stock otherwise issuable upon conversion thereof equal to the Applicable Share Amount.

5.9 Common Stock Conversion. Subject to adjustment as set forth in Section 5.8(ii) above, each one share of Series 2 Common Stock shall automatically be converted into one share of Series 1 Common Stock immediately upon the earlier of (i) the date, or the occurrence of an event, specified by a prior written consent or agreement of (x) the holders of a majority of the outstanding shares of Series 2 Common Stock (voting as a separate series) and (y) the holders of a majority of the outstanding shares of Series A Preferred Stock (voting as a separate series) and (ii) the consummation of an initial Public Offering in accordance with

Section 8. The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Series 1 Common Stock, solely for the purpose of effecting the conversion of the shares of the Series 2 Common Stock, such number of its shares of Series 1 Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of the Series 2 Common Stock; and if at any time the number of authorized but unissued shares of Series 1 Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Series 2 Common Stock, in addition to such other remedies as shall be available to the holder of such Series 2 Common 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 Series 1 Common Stock to such number of shares as shall be sufficient for such purposes, including, without limitation, engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to this Amended and Restated Certificate of Incorporation. In the event any shares of Series 2 Common Stock shall be converted pursuant to this Section 5.9, the shares so converted shall be cancelled and shall not be issuable by this Corporation. This Amended and Restated Certificate of Incorporation shall be appropriately amended to effect the corresponding reduction in the Corporation's authorized capital stock. In no event shall any stock dividends or stock splits or combinations of stock be declared or made with respect to the Series 1 Common Stock and Series 2 Common Stock unless all shares of Series 1 Common Stock and Series 2 Common Stock then outstanding are treated equally.

6. Purchase Rights. If at any time the Corporation grants, issues or sells any Options, Convertible Securities or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of Common Stock (the "Purchase Rights"), then each holder of Series A Preferred Stock shall be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which such holder could have acquired if such holder had held the number of shares of Conversion Stock acquirable upon conversion of such holder's Series A Preferred Stock immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or if no such record is taken, the date as of which the record holders of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights.

7. Events of Noncompliance.

7.1 Definition. An "Event of Noncompliance" shall have occurred if:

(i) the Corporation fails to pay when due the payment of all or any portion of the Put Price which it is required to make under the Stockholders Agreement, whether or not such payment is legally permissible or is prohibited by any agreement to which the Corporation is subject; or

(ii) the Corporation breaches or otherwise fails to perform any other covenant or agreement set forth herein or in the Recapitalization Agreement, Investor Rights Agreement, Stockholders Agreement, or Registration Agreement.

7.2 Consequences of Events of Noncompliance.

(i) If an Event of Noncompliance of any type described in Section 7.1(i) has occurred and continues for a period of 120 days or an Event of Noncompliance of any type

described in Section 7.1(ii) has occurred and continues for a period of 15 days (or in the event of the breach of any covenant in Section 8 or Section 1C of the Investor Rights Agreement without regard for duration of continuing breach), the dividend rate on the Series A Preferred Stock shall increase from and after the later of the date of such Event of Noncompliance or the expiration of the applicable 120 day or 15 day cure period specified above by an increment of two (2) percentage points. Thereafter, until such time as no Event of Noncompliance exists, such dividend rate shall increase automatically at the end of each succeeding 90-day period by an additional increment of two (2) percentage points (but in no event shall such dividend rate exceed 12%). Any increase in the dividend rate resulting from the operation of this subparagraph shall terminate as of the close of business on the date on which no Event of Noncompliance exists.

(ii) If any Event of Noncompliance exists, each holder of Series A Preferred Stock shall also have any other rights which such holder is entitled to under any contract or agreement at any time and any other rights which such holder may have pursuant to applicable law. The matters described in Section 7 shall constitute Events of Noncompliance whatever the reason or cause for any such Event of Noncompliance and whether it is voluntary or involuntary or is effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body and regardless of the effects of any subordination provisions.

8. Certain Negative Covenants. The Corporation shall not (without the prior written consent of the holders of at least 60% of the outstanding shares of Series A Preferred Stock), whether by amendment, merger, consolidation or otherwise:

(i) directly or indirectly declare or pay, or permit any Subsidiary to declare or pay, any dividends or make any distributions upon any of its capital stock or other equity securities, except that (a) the Corporation may declare and pay dividends payable in shares of its Common Stock issued upon the outstanding shares of its Common Stock and any Subsidiary may declare and pay dividends or make distributions to the Corporation and (b) the Corporation may declare and pay cash dividends upon its outstanding Series A Preferred Stock pursuant to Section 2 of this Certificate of Incorporation;

(ii) directly or indirectly redeem, purchase or otherwise acquire, or permit any Subsidiary to redeem, purchase or otherwise acquire, any of the Corporation's or any Subsidiary's capital stock or other equity securities (including, without limitation, warrants, options and other rights to acquire such capital stock or other equity securities), other than (a) the Series A Preferred Stock pursuant to the terms of this Certificate of Incorporation or the Stockholders Agreement or (b) repurchases of unvested Common Stock and forfeitures of unvested options, warrants and other equity securities from or by former employees or other service providers of the Corporation and its Subsidiaries upon termination of employment or service to the Corporation and its Subsidiaries, in the case of repurchases of unvested Common Stock, for a purchase price no greater than the original purchase price paid by such employee or service provider for such Common Stock; or directly or indirectly redeem, purchase or make any payments with respect to any stock appreciation rights, phantom stock plans or similar rights or plans, other than forfeitures of unvested rights by former employees or other service providers of

the Corporation and its Subsidiaries upon termination of employment or service to the Corporation and its Subsidiaries;

(iii) authorize, issue or enter into any agreement providing for the issuance (contingent or otherwise) of any notes or debt securities containing equity features (including, without limitation, any notes or debt securities convertible into or exchangeable for capital stock or other equity securities, issued in connection with the issuance of capital stock or other equity securities or containing profit participation features), (b) any capital stock or other equity securities (or any securities convertible into or exchangeable for any capital stock or other equity securities) which are senior to or on a parity with the Series A Preferred Stock with respect to the payment of dividends, redemptions, distributions upon liquidation or otherwise, or (c) any additional shares of Series A Preferred Stock;

(iv) merge or consolidate with any Person or permit any Subsidiary to merge or consolidate with any Person, other than (a) a merger of a Wholly-Owned Subsidiary with another Wholly-Owned Subsidiary, (b) a merger effected solely to change the state of incorporation to the state of Delaware, or (c) pursuant to a Qualified Liquidity Event;

(v) sell, lease or otherwise dispose of, or permit any Subsidiary to sell, lease or otherwise dispose of, more than 25% of the consolidated assets (including, without limitation, the capital stock of any Subsidiaries) of the Corporation and its Subsidiaries taken together (computed on the basis of book value, determined in accordance with GAAP consistently applied, contribution to the Corporation's revenues or earnings, or fair market value, determined by the Corporation's board of directors in its reasonable good faith judgment) in any transaction or series of related transactions (other than sales of inventory or non-exclusive licenses of intellectual property in the ordinary course of business) or sell or permanently dispose of any of its or any Subsidiary's material Intellectual Property Rights outside the ordinary course of business (other than the expiration of registered intellectual property at the end of its statutory term), in each case, other than (a) pursuant to a Qualified Liquidity Event or (b) pursuant to a disposition involving solely the Corporation and/or one or more Wholly-Owned Subsidiaries;

(vi) liquidate, dissolve or effect a corporate reorganization in any form of transaction (including, without limitation, any reorganization into a limited liability company, a partnership or any other non-corporate entity which is treated as a partnership for federal income tax purposes, or the formation of a parent holding company for the Corporation);

(vii) make any amendment to this Certificate of Incorporation, or the Corporation's Bylaws, or file any resolution of the Corporation's board of directors with the Delaware Secretary of State containing any provisions which (a) would amend or otherwise change the terms of the Series A Preferred Stock or adversely affect or otherwise impair the rights or the relative preferences and priorities of the holders of the Series A Preferred Stock under this Certificate of Incorporation or the Corporation's Bylaws or which would prevent the Company from performing any of its obligations under the Registration Agreement, the Investor Rights Agreement or the Stockholders Agreement or (b) which would amend or otherwise change the terms of the Common Stock or any series thereof;

(viii) enter into, amend, modify or supplement, or permit any Subsidiary to enter into, amend, modify or supplement, any agreement, transaction, or binding commitment or

arrangement with any of its or any Subsidiary's officers, directors, 5% stockholders or Affiliates or with any individual known to it to be related by blood, marriage or adoption to any such individual or with any entity known to it in which any such Person or individual owns a beneficial interest (other than an interest in a publicly-traded company), except for customary employment arrangements and benefit programs on reasonable terms and except as otherwise expressly contemplated by the Recapitalization Agreement, Investor Rights Agreement, Stockholders Agreement, or Registration Agreement;

(ix) consummate an initial Public Offering that does not constitute a Qualified Public Offering; or

(x) consummate or permit any Non-Qualified Liquidity Event.

9. Miscellaneous.

9.1 Registration of Transfer. The Corporation shall keep at its principal office a register for the registration of Series A Preferred Stock. Upon the surrender of any certificate representing Series A Preferred Stock at such place, the Corporation shall, at the request of the record holder of such certificate, execute and deliver (at the Corporation's expense) a new certificate or certificates in exchange therefor representing in the aggregate the number of Series A Shares represented by the surrendered certificate. Each such new certificate shall be registered in such name and shall represent such number of Series A Shares as is requested by the holder of the surrendered certificate and shall be substantially identical in form to the surrendered certificate, and dividends shall accrue on the Series A Preferred Stock represented by such new certificate from the date to which dividends have been fully paid on such Series A Preferred Stock represented by the surrendered certificate.

9.2 Replacement. Upon receipt of evidence reasonably satisfactory to the Corporation (an affidavit of the registered holder shall be satisfactory) of the ownership and the loss, theft, destruction or mutilation of any certificate evidencing Series A Shares, and in the case of any such loss, theft or destruction, upon receipt of indemnity reasonably satisfactory to the Corporation (provided that if the holder is a financial institution or other institutional investor its own agreement shall be satisfactory), or, in the case of any such mutilation upon surrender of such certificate, the Corporation shall (at its expense) execute and deliver in lieu of such certificate a new certificate of like kind representing the number of shares of such class represented by such lost, stolen, destroyed or mutilated certificate and dated the date of such lost, stolen, destroyed or mutilated certificate, and dividends shall accrue on the Series A Preferred Stock represented by such new certificate from the date to which dividends have been fully paid on such lost, stolen, destroyed or mutilated certificate.

9.3 Amendment and Waiver. No amendment, modification, alteration, repeal or waiver of any provision of Sections 1 to 9 hereof shall be binding or effective without the prior written consent of the holders of at least 60% of the Series A Preferred Stock outstanding at the time such action is taken; provided that no amendment, modification, alteration, repeal or waiver of the terms or relative priorities of the Series A Preferred Stock may be accomplished by the merger, consolidation or other transaction of the Corporation with another corporation or entity unless the Corporation has obtained the prior written consent of the holders of at least 60%

of the Series A Preferred Stock then outstanding.

9.4 Notices. Except as otherwise expressly provided hereunder, all notices referred to herein shall be in writing and shall be delivered by registered or certified mail, return receipt requested and postage prepaid, or by reputable overnight courier service, charges prepaid, and shall be deemed to have been given when so mailed or sent (i) to the Corporation, at its principal executive offices and (ii) to any stockholder, at such holder's address as it appears in the stock records of the Corporation (unless otherwise indicated by any such holder).

ARTICLE VI: DIRECTOR LIABILITY

To the fullest extent permitted by law, no director of the Corporation will be personally liable for monetary damages for breach of fiduciary duty as a director. Without limiting the effect of the preceding sentence, if the Delaware General Corporation Law is hereafter amended to authorize the further elimination or limitation of the liability of a director, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the Delaware General Corporation Law, as so amended.

Neither any amendment nor repeal of this Article VI, nor the adoption of any provision of this Certificate of Incorporation inconsistent with this Article VI, shall eliminate, reduce or otherwise adversely affect any limitation on the personal liability of a director of the Corporation existing at the time of such amendment, repeal or adoption of such an inconsistent provision.

ARTICLE VII: CORPORATE OPPORTUNITIES

To the maximum extent permitted from time to time under the law of the State of Delaware, the Corporation renounces any interest or expectancy of the Corporation in, or in being offered an opportunity to participate in, business opportunities that are from time to time presented to its officers, directors or stockholders, other than those officers, directors or stockholders who are employees of the Corporation. No amendment or repeal of this Article VII shall apply to or have any effect on the liability or alleged liability of any officer, director or stockholder of the Corporation for or with respect to any opportunities of which such officer, director, or stockholder becomes aware prior to such amendment or repeal.

ARTICLE VIII: INDEMNIFICATION

The Corporation is authorized to provide, only with respect to actions other than those on behalf of the Corporation or by its stockholders, indemnification of agents (as defined in Section 145 of the General Corporation Law of the State of Delaware) through bylaw provisions, agreements with agents, vote of stockholders or disinterested directors or otherwise, in excess of the indemnification otherwise permitted by Section 145 of the General Corporation Law of the State of Delaware. Unless applicable law otherwise requires, any amendment, repeal or modification of any provision of this Article VI shall not adversely affect any contract or other right to indemnification of an agent of the corporation that existed at or prior to the time of such amendment, repeal or modification.