# TRADEMARK ASSIGNMENT

Electronic Version v1.1
Stylesheet Version v1.1

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

## CONVEYING PARTY DATA

| Name | Formerly | Execution Date | Entity Type |
|---|---|---|---|
| Locastic, Inc. | | 04/12/2011 | CORPORATION: DELAWARE |

## RECEIVING PARTY DATA

| | |
|---|---|
| Name: | Honey, Inc. |
| Street Address: | 18 Hurley Street |
| City: | Cambridge |
| State/Country: | MASSACHUSETTS |
| Postal Code: | 02141 |
| Entity Type: | CORPORATION: DELAWARE |

## PROPERTY NUMBERS Total: 8

| Property Type | Number | Word Mark |
|---|---|---|
| Serial Number: | 85285458 | GET HONEY. |
| Serial Number: | 85285448 | GET HONEY. |
| Serial Number: | 85285455 | GET HONEY. |
| Serial Number: | 85285469 | GET HONEY. |
| Serial Number: | 85286742 | GET HONEY. |
| Serial Number: | 85286728 | HONEY |
| Serial Number: | 85286730 | HONEY |
| Serial Number: | 85319982 | HONEY "SWEETEN THE DEAL" |

CH $215.00 85285458

## CORRESPONDENCE DATA

Fax Number: (215)832-5767
Phone: 2155695767
Email: perry@blankrome.com

*Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent via US Mail.*

Correspondent Name: David M. Perry

| | |
|---|---|
| Address Line 1: | One Logan Square |
| Address Line 2: | 8th Floor |
| Address Line 4: | Philadelphia, PENNSYLVANIA 19103-6998 |

| | |
|---|---|
| ATTORNEY DOCKET NUMBER: | 136484-00101 |
| NAME OF SUBMITTER: | David M. Perry |
| Signature: | /David M. Perry/ |
| Date: | 01/25/2012 |

Total Attachments: 13
source=Locastic to Honey#page1.tif
source=Locastic to Honey#page2.tif
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source=Locastic to Honey#page4.tif
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# Delaware



*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 "LOCASTIC, INC.", CHANGING ITS NAME FROM "LOCASTIC, INC." TO "HONEY, INC.", FILED IN THIS OFFICE ON THE TWELFTH DAY OF APRIL, A.D. 2011, AT 4:03 O'CLOCK P.M.

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

Jeffrey W. Bullock, Secretary of State

4908328 8100

AUTHENTICATION: 8689443

110407585

DATE: 04-13-11

You may verify this certificate online at corp.delaware.gov/authver.shtml

State of Delaware
Secretary of State
Division of Corporations
Delivered 04:09 PM 04/12/2011
FILED 04:03 PM 04/12/2011
SRV 110407585 - 4908328 FILE

# AMENDED AND RESTATED CERTIFICATE OF INCORPORATION OF LOCASTIC, INC.

The undersigned, Nathaniel Stevens, hereby certifies that:

1. He is the duly elected and acting Chief Executive Officer of Locastic, Inc., a Delaware corporation.

2. The Certificate of Incorporation of this corporation was originally filed with the Secretary of State of Delaware on December 6, 2010.

3. The Certificate of Incorporation of this corporation shall be amended and restated to read in full as follows:

## ARTICLE I

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

## ARTICLE II

The address of the Corporation's registered office in the State of Delaware is 16192 Coastal Highway, Lewes, Delaware 19958. The name of its registered agent at such address is Harvard Business Services, Inc.

## ARTICLE III

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

## ARTICLE IV

(A) **Classes of Stock.** The Corporation is authorized to issue two classes of stock to be designated, respectively, "Common Stock" and "Series A Preferred Stock." The total number of shares which the Corporation is authorized to issue is 164,000,000 shares, each with a par value of $0.0001 per share. 132,000,000 shares shall be Common Stock and 32,000,000 shares shall be Series A Preferred Stock.

(B) **Rights, Preferences and Restrictions of Series Preferred Stock.** The rights, preferences, privileges, and restrictions granted to and imposed on the Series A Preferred Stock are as follows:

1. **Dividend Provisions.** The Corporation shall not declare, pay or set aside any dividends on shares of any other class or series of capital stock of the Corporation (other than

dividends on shares of Common Stock payable in shares of Common Stock) unless, in addition to the obtaining of any consents required elsewhere in the Certificate of Incorporation, the holders of the Series A Preferred Stock then outstanding shall first receive, or simultaneously receive, a dividend on each outstanding share of Series Preferred Stock in an amount at least equal to the greater of (i) $0.000875 (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization affecting such shares) and (ii) (A) in the case of a dividend on Common Stock or any class or series that is convertible into Common Stock, that dividend per share of Series A Preferred Stock as would equal the product of (1) the dividend payable on each share of such class or series determined, if applicable, as if all shares of such class or series had been converted into Common Stock and (2) the number of shares of Common Stock issuable upon conversion of a share of Series A Preferred Stock, in each case calculated on the record date for determination of holders entitled to receive such dividend or (B) in the case of a dividend on any class or series that is not convertible into Common Stock, at a rate per share of Series A Preferred Stock determined by (1) dividing the amount of the dividend payable on each share of such class or series of capital stock by the original issuance price of such class or series of capital stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization affecting such shares) and (2) multiplying such fraction by an amount equal to the Series A Original Issue Price (as defined below); provided that, if the Corporation declares, pays or sets aside, on the same date, a dividend on shares of more than one class or series of capital stock of the Corporation, the dividend payable to the holders of Series A Preferred Stock pursuant to this Article IV(B)(1) shall be calculated based upon the dividend on the class or series of capital stock that would result in the highest Series A Preferred Stock dividend. The foregoing dividend shall not be cumulative and shall only be payable when and if declared by the Corporation. The "Series A Original Issue Price" shall mean $0.0175 per share, subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the applicable series of Series A Preferred Stock.

2. **Liquidation.**

(a) Preference. In the event of any liquidation, dissolution or winding up of the Corporation, either voluntary or involuntary (any such event, a "Liquidation"), the holders of the Series A Preferred Stock shall be entitled to receive, prior and in preference to any distribution of any of the assets or funds of the Corporation to the holders of Common Stock by reason of their ownership thereof, an amount per share equal to the Series A Original Issue Price for each share of Series A Preferred Stock then held by them, plus declared but unpaid dividends, if any; provided that, in the event that the amount that any holder of Series A Preferred Stock would receive pursuant to the above is less than the amount (the "As-Converted Amount") that such holder would be entitled to receive were such share of Series A Preferred Stock to be converted to Common Stock pursuant to Article IV(B)(4) immediately prior to such Liquidation, such holder shall instead receive the As-Converted Amount with respect to such share of Series A Preferred Stock. If, upon the occurrence of such event, the assets and funds thus distributed among the holders of the Series A Preferred Stock shall be insufficient to permit the payment to such holders of the full aforesaid preferential amounts, then the entire assets and funds of the Corporation legally available for distribution shall be distributed ratably among the holders of the



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Series A Preferred Stock in proportion to the preferential amount each such holder is otherwise entitled to receive.

(b) Remaining Assets. In the event of any liquidation, dissolution or winding up of the Corporation, either voluntary or involuntary, upon completion of the entire distribution required by Article IV(B)(2)(a) above, the remaining assets and funds of the Corporation available for distribution to stockholders shall be distributed among the holders of the Common Stock pro rata based on the number of shares of Common Stock held by each.

(c) **Liquidation Transaction.**

(i) **Deemed Liquidation.** For purposes of this Article IV(B)(2), a liquidation, dissolution, or winding up of the Corporation shall be deemed to occur if the Corporation shall sell, convey, or otherwise dispose of all or substantially all of its property or business or merge with or into or consolidate with any other corporation, limited liability company or other entity (other than a wholly-owned subsidiary of the Corporation), unless the holders of at least a majority of the Series A Preferred Stock elect not to treat the transaction as a Liquidation Transaction (any such transaction, unless elected otherwise, a "Liquidation Transaction"); provided, however, that none of the following shall be considered a Liquidation Transaction: (i) a merger effected for the purpose of changing the domicile of the Corporation, (ii) an equity financing in which cash is received by the Corporation for working capital purposes and the Corporation is the surviving corporation, or (iii) a transaction in which the stockholders of the Corporation immediately prior to the transaction own 50% or more of the voting stock of the surviving corporation following the transaction (taking into account only stock of the Corporation held by such stockholders prior to the transaction). In the event of a Liquidation Transaction, the holders of Series A Preferred Stock and Common Stock shall be entitled to receive for each share of Series A Preferred Stock and Common Stock, as the case may be, then held, at the closing of the Liquidation Transaction in cash, securities or other property (valued as provided in Article IV(B)(2)(c)(ii) below) amounts as specified in Articles IV(B)(2)(a) and IV(B)(2)(b) above.

(ii) **Valuation of Consideration.** In the event of a deemed liquidation as described in Article IV(B)(2)(c)(i) above, if the consideration received by the Corporation is other than cash, its value will be deemed its fair market value, as determined in good faith by the Board of Directors of the Corporation (the "Board of Directors"). Any securities shall be valued as follows:

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

(1) If traded on a securities exchange or The Nasdaq Stock Market ("Nasdaq"), the value shall be based on the formula specified in the definitive agreements for the Liquidation Transaction or, if no such formula exists, then the value of such securities shall be based on a formula approved by the Board of Directors in good faith and derived from the closing prices of the securities on such exchange or Nasdaq over a specified time period;



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(2) If actively traded over-the-counter, the value shall be based on the formula specified in the definitive agreements for the Liquidation Transaction or, if no such formula exists, then the value of such securities shall be based on a formula approved by the Board of Directors in good faith and derived from the closing bid or sales prices (whichever is applicable) of such securities over a specified time period; and

(3) If there is no active public market, the value shall be the fair market value thereof, as determined in good faith by the Board of Directors.

(B) 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 specified above in Article IV(B)(2)(c)(ii)(A) to reflect the approximate fair market value thereof, as determined in good faith by the Board of Directors.

3. **Redemption.** The Series A Preferred Stock is not redeemable.

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

(a) **Right to Convert.** Subject to Article IV(B)(4)(c), each share of Series A Preferred Stock shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share, at the office of the Corporation or any transfer agent for such stock, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing the Series A Original Issue Price by the Conversion Price applicable to such share, determined as hereafter provided, in effect on the date of such conversion. The initial Conversion Price per share shall be $0.0175. Such initial Conversion Price shall be subject to adjustment as set forth in Article IV(B)(4)(d) below.

(b) **Automatic Conversion.** Each share of Preferred Stock shall automatically be converted into shares of Common Stock at the Conversion Price at the time in effect for such share immediately upon the earlier of (i) immediately prior to the closing of the Corporation's sale of its Common Stock in a firm commitment underwritten public offering pursuant to a registration statement under the Securities Act of 1933, as amended (the "Securities Act") that values the Corporation (prior to underwriting commissions and expenses) at least $100,000,000 and which results in aggregate cash proceeds to the Corporation of not less than $30,000,000 (before deduction of underwriting discounts and registration expenses) or (ii) the date specified by written consent or agreement of the holders of at least sixty percent (60%) of the then outstanding shares of Series A Preferred Stock.

(c) **Mechanics of Conversion.** Before any holder of Series A Preferred Stock shall be entitled to convert such Series A Preferred Stock into shares of Common Stock, the holder shall surrender the certificate or certificates therefor, duly endorsed (or a reasonably acceptable affidavit and indemnity undertaking in the case of a lost, stolen or destroyed certificate), at the office of the Corporation or of any transfer agent for such series of



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Preferred Stock, and shall give written notice to the Corporation at its principal corporate office, of the election to convert the same and shall state therein the name or names in which the certificate or certificates for shares of Common Stock are to be issued. The Corporation shall, as soon as practicable thereafter, issue and deliver at such office to such holder of Series A Preferred Stock, or to the nominee or nominees of such holder, a certificate or certificates for the number of shares of Common Stock to which such holder shall be entitled as aforesaid, and a certificate for the remaining number of shares of Series A Preferred Stock if less than all of the Series A Preferred Stock evidenced by the certificate were surrendered. Such conversion shall be deemed to have been made immediately prior to the close of business on (i) the date of such surrender of the shares of Series A Preferred Stock to be converted or (ii) if applicable, the date of automatic conversion specified in Article IV(B)(4)(b) above, and the person or persons entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock as of such date. If the conversion is in connection with an underwritten public offering of securities registered pursuant to the Securities Act the conversion may, at the option of any holder tendering such Series A Preferred Stock for conversion, be conditioned upon the closing with the underwriters of the sale of securities pursuant to such offering, in which event any persons entitled to receive Common Stock upon conversion of such Series A Preferred Stock shall not be deemed to have converted such Series A Preferred Stock until immediately prior to the closing of such sale of securities. Upon an automatic conversion specified in Article IV(B)(4)(b) above, the outstanding shares of Series A Preferred Stock shall be converted automatically into shares of Common Stock without any further action by the holders of such shares and whether or not certificates representing such shares are surrendered to the Corporation or its transfer agent; provided, however, that the Corporation shall not be obligated to issue certificates evidencing the shares of Common Stock issuable upon such conversion unless the certificates evidencing such shares of Series A Preferred Stock are either delivered to the Corporation or its transfer agent as provided above, or the holder notifies the Corporation that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the Corporation to indemnify the Corporation from any loss incurred by it in connection with such certificates.

(d) **Conversion Price Adjustments of Series A Preferred Stock for Certain Dilutive Issuances, Splits and Combinations.** The Conversion Prices shall be subject to adjustment from time to time as follows:

(i) **Issuance of Additional Stock below Purchase Price.** If the Corporation should issue, at any time after the date upon which any shares of Series A Preferred Stock were first issued (the "Purchase Date"), any Additional Stock (as defined below) without consideration or for a consideration per share less than the Conversion Price for such series in effect immediately prior to the issuance of such Additional Stock, the Conversion Price for such series in effect immediately prior to each such issuance shall automatically be adjusted as set forth in this Article IV(B)(4)(d)(i), unless otherwise provided in this Article IV(B)(4)(d)(i).

(A) **Adjustment Formula.** Whenever the Conversion Price is adjusted pursuant to this Article IV(B)(4)(d)(i), the new Conversion Price shall be determined by multiplying the Conversion Price then in effect for such series by a fraction, (x) the numerator of which shall be the number of shares of Common Stock outstanding immediately



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prior to such issuance (the "Outstanding Common") plus the number of shares of Common Stock that the aggregate consideration received by the Corporation for such issuance would purchase at such Conversion Price; and (y) the denominator of which shall be the number of shares of Outstanding Common plus the number of shares of such Additional Stock. For purposes of the foregoing calculation, the term "Outstanding Common" shall include shares of Common Stock deemed issued pursuant to Article IV(B)(4)(d)(i)(D) below.

(B) **Definition of "Additional Stock".** For purposes of this Article IV(B)(4)(d)(i), "Additional Stock" shall mean any shares of Common Stock issued (or deemed to have been issued pursuant to Article IV(B)(4)(d)(i)(D)) by the Corporation after the Purchase Date) other than equity securities (including without limitation equity securities issued upon conversion or exercise of any option, warrant, note, capital stock or other equity security) (collectively, "Equity Securities") described below:

(1) Equity Securities issued pursuant to stock dividends, stock splits or similar transactions, as described in Article IV(B)(4)(d)(ii) hereof;

(2) Equity Securities issued or issuable to employees, officers, consultants or directors of the Corporation or other persons performing services for the Corporation, directly or pursuant to a stock option plan or restricted stock plan approved by the Board of Directors;

(3) Equity Securities issued to financial institutions or lessors in connection with commercial credit arrangements, equipment financings, commercial property lease transactions, the terms of which are approved by the Board of Directors;

(4) Equity Securities issuable upon exercise of warrants, notes, or other convertible securities outstanding as of the date of this Amended and Restated Certificate of Incorporation (this "Certificate of Incorporation");

(5) Equity Securities issued in connection with bona fide acquisitions, mergers or similar transactions, the terms of which are approved by the Board of Directors;

(6) Equity Securities issued upon conversion of any shares of Series A Preferred Stock;

(7) Equity Securities issued or issuable in a public offering;

(8) Equity Securities issued or issuable as a component of any business relationship for the purpose of (A) joint venture, technology licensing or development activities, (B) distribution, supply or manufacture of the Corporation's products or services, (C) the retention of service providers or (D) any other arrangements involving corporate partners that are primarily for purposes other than raising capital, the terms of which business relationship are approved by the Board of Directors; and



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(9) Equity Securities issued or issuable with the affirmative vote of at least a majority of the then outstanding shares of Series A Preferred Stock.

(C) **Determination of Consideration.** In the case of the issuance of Common Stock for cash, the consideration shall be deemed to be the aggregate amount of cash paid therefor before deducting any reasonable discounts, commissions or other expenses allowed, paid or incurred by the Corporation for any underwriting or otherwise in connection with the issuance and sale thereof. In the case of the issuance of the Common Stock for a consideration in whole or in part other than cash, the consideration other than cash shall be deemed to be the fair value thereof as determined in good faith by the Board of Directors irrespective of any accounting treatment.

(D) **Deemed Issuances of Common Stock.** In the case of the issuance (whether before, on or after the applicable Purchase Date) of securities or rights convertible into, or entitling the holder thereof to receive directly or indirectly, additional shares of Common Stock (the "Common Stock Equivalents"), the following provisions shall apply for all purposes of this Article IV(B)(4)(d)(i):

(1) The aggregate maximum number of shares of Common Stock deliverable upon conversion, exchange or exercise (assuming the satisfaction of any conditions to convertibility, exchangeability or exercisability, including, without limitation, the passage of time, but without taking into account potential antidilution adjustments) of any Common Stock Equivalents and subsequent conversion, exchange or exercise thereof shall be deemed to have been issued at the time such securities were issued or such Common Stock Equivalents were issued and for a consideration equal to the consideration, if any, received by the Corporation for any such securities and related Common Stock Equivalents (excluding any cash received on account of accrued interest or accrued dividends), plus the minimum additional consideration, if any, to be received by the Corporation (without taking into account potential antidilution adjustments) upon the conversion, exchange or exercise of any Common Stock Equivalents (the consideration in each case to be determined in the manner provided in Article IV(B)(4)(d)(i)(C).

(2) In the event of any change in the number of shares of Common Stock deliverable or in the consideration payable to the Corporation upon conversion, exchange or exercise of any Common Stock Equivalents, other than a change resulting from the antidilution provisions thereof, the Conversion Price, to the extent in any way affected by or computed using such Common Stock Equivalents, shall be recomputed to reflect such change, but no further adjustment shall be made for the actual issuance of Common Stock or any payment of such consideration upon the conversion, exchange or exercise of such Common Stock Equivalents.

(3) Upon the termination or expiration of the convertibility, exchangeability or exercisability of any Common Stock Equivalents, the Conversion Price, to the extent in any way affected by or computed using such Common Stock Equivalents, shall be recomputed to reflect the issuance of only the number of shares of Common



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Stock (and Common Stock Equivalents that remain convertible, exchangeable or exercisable) actually issued upon the conversion, exchange or exercise of such Common Stock Equivalents.

(4) The number of shares of Common Stock deemed issued and the consideration deemed paid therefor pursuant to Article IV(B)(4)(d)(i)(D)(1) shall be appropriately adjusted to reflect any change, termination or expiration of the type described in either Articles IV(B)(4)(d)(i)(D)(2) or IV(B)(4)(d)(i)(D)(3).

(E) **No Increased Conversion Price.** Notwithstanding any other provisions of this Article IV(B)(4)(d)(i), except to the limited extent provided for in Articles IV(B)(4)(d)(i)(D)(2) and IV(B)(4) (d)(i)(D)(3), no adjustment of the Conversion Price pursuant to this Article IV(B)(4)(d)(i) shall have the effect of increasing the Conversion Price above the Conversion Price in effect immediately prior to such adjustment.

(ii) **Stock Splits and Dividends.** In the event the Corporation should at any time after the Purchase Date fix a record date for the effectuation of a split or subdivision of the outstanding shares of Common Stock or the determination of holders of Common Stock entitled to receive a dividend or other distribution payable in additional shares of Common Stock or Common Stock Equivalents without payment of any consideration by such holder for the additional shares of Common Stock or the Common Stock Equivalents (including the additional shares of Common Stock issuable upon conversion or exercise thereof), then, as of such record date (or the date of such dividend distribution, split or subdivision if no record date is fixed), the Conversion Price shall be appropriately decreased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be increased in proportion to such increase of the aggregate of shares of Common Stock outstanding and those issuable with respect to such Common Stock Equivalents with the number of shares issuable with respect to Common Stock Equivalents determined from time to time in the manner provided for deemed issuances in Article IV(B)(4)(d)(i)(D).

(iii) **Reverse Stock Splits.** If the number of shares of Common Stock outstanding at any time after the Purchase Date is decreased by a combination of the outstanding shares of Common Stock, then, following the record date of such combination, the Conversion Price shall be appropriately increased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be decreased in proportion to such decrease in outstanding shares.

(e) **Other Distributions.** In the event the Corporation shall declare a distribution (other than a subdivision, combination or merger or sale of assets transaction provided for elsewhere in this Article IV(B)(4) or in Article IV(B)(2)) payable in securities of other persons, evidences of indebtedness issued by the Corporation or other persons, assets (excluding cash dividends) or options or rights not referred to in Articles IV(B)(4)(d)(i) or IV(B)(4)(d)(ii), then, in each such case for the purpose of this Article IV(B)(4)(e), the holders of Series A Preferred Stock shall be entitled to a proportionate share of any such distribution as though they were the holders of the number of shares of Common Stock into which their shares of Series A Preferred Stock are convertible as of the record date fixed for the determination of the holders of Common Stock entitled to receive such distribution.



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(f) **Recapitalizations.** If at any time or from time to time there shall be a recapitalization of the Common Stock (other than a subdivision, combination or merger or sale of assets transaction provided for elsewhere in this Article IV(B)(4) or in Article IV(B)(2)) provision shall be made so that the holders of Series A Preferred Stock shall thereafter be entitled to receive upon conversion of such Series A Preferred Stock the number of shares of stock or other securities or property of the Corporation or otherwise, to which a holder of Common Stock deliverable upon conversion would have been entitled on such recapitalization. In any such case, appropriate adjustment shall be made in the application of the provisions of this Article IV(B)(4) with respect to the rights of the holders of such Series A Preferred Stock after the recapitalization to the end that the provisions of this Article IV(B)(4) (including adjustment of the Conversion Price then in effect and the number of shares purchasable upon conversion of such Series A Preferred Stock) shall be applicable after that event and be as nearly equivalent as practicable.

(g) **No Fractional Shares and Certificate as to Adjustments.**

(i) No fractional shares shall be issued upon the conversion of any share or shares of Series A Preferred Stock, and the number of shares of Common Stock to be issued shall be rounded to the nearest whole share. The number of shares issuable upon such conversion shall be determined on the basis of the total number of shares of any series of Series A Preferred Stock the holder is at the time converting into Common Stock and the number of shares of Common Stock issuable upon such aggregate conversion.

(ii) Upon the occurrence of each adjustment or readjustment of the Conversion Price pursuant to this Article IV(B)(4), the Corporation, at its expense, shall promptly compute such adjustment or readjustment in accordance with the terms hereof and prepare and furnish to each holder of Series A Preferred Stock a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based.

(h) **Notices of Record Date.** In the event of any taking by the Corporation of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend (other than a cash dividend) or other distribution, any right to subscribe for, purchase or otherwise acquire any shares of stock of any class or any other securities or property, or to receive any other right, the Corporation shall mail to each holder of Series A Preferred Stock, at least 10 days prior to the date specified therein, a notice specifying the date on which any such record is to be taken for the purpose of such dividend, distribution or right, and the amount and character of such dividend, distribution or right.

(i) **Reservation of Stock Issuable Upon Conversion.** The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of the shares of the Series A 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 such Series A Preferred Stock; and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of such Series A Preferred Stock,



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the Corporation will take such corporate action as may be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes.

(j) **Notices.** Any notice required by the provisions of this Article IV(B)(4) to be given to the holders of shares of Series A Preferred Stock shall be deemed given if deposited in the United States mail, postage prepaid, and addressed to each holder of record at his address appearing on the books of the Corporation.

5. **Voting Rights.** Except as expressly provided by this Certificate of Incorporation or as provided by law, the holders of Series A Preferred Stock shall have the same voting rights as the holders of Common Stock and shall be entitled to notice of any stockholders' meeting in accordance with the Bylaws of the Corporation, and the holders of Common Stock and the Series A Preferred Stock shall vote together as a single class on all matters. Each holder of Common Stock shall be entitled to one vote for each share of Common Stock held, and each holder of Series A Preferred Stock shall be entitled to the number of votes equal to the number of shares of Common Stock into which such shares of Series A Preferred Stock could be converted. Fractional votes shall not, however, be permitted and any fractional voting rights available on an as-converted basis (after aggregating all shares into which shares of Series A Preferred Stock held by each holder could be converted) shall be rounded to the nearest whole number (with one-half being rounded upward). In furtherance of the foregoing and irrespective of Section 241(b)(2) of the Delaware General Corporation Law, the number of shares of any class or series of capital 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 outstanding shares of Common Stock and Series A Preferred Stock entitled to vote together with the shares of Common Stock, voting as a single class.

6. **Status of Converted Stock.** In the event any shares of Series A Preferred Stock shall be converted pursuant to Article IV(B)(4) hereof, the shares so converted shall be cancelled and shall not be issuable by the Corporation.

(C) **Common Stock.**

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, the holders of the Common Stock shall be entitled to receive, when and as declared by the Board of Directors, out of any assets of the Corporation legally available therefor, such dividends as may be declared from time to time by the Board of Directors.

2. **Liquidation Rights.** Upon the liquidation, dissolution or winding up of the Corporation, or the occurrence of a Liquidation Transaction, the assets of the Corporation shall be distributed as provided in Article IV(B)(2).

3. **Redemption.** The Common Stock is not redeemable.



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4. **Voting Rights.** Each holder of Common Stock shall have the right to one vote per share of Common Stock, and shall be entitled to notice of any stockholders' meeting in accordance with the Bylaws of the Corporation, and shall be entitled to vote upon such matters and in such manner as may be provided by law. The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares of Common Stock then outstanding or reserved for the exercise of options or warrants or conversion of Preferred Stock) by the affirmative vote of the holders of a majority of stock of the Corporation entitled to vote thereon, voting as a single class (and not as a separate individual class of solely holders of Common Stock), notwithstanding the provisions of Section 242(b)(2) of the General Corporation Law of the State of Delaware.

## ARTICLE V

The Board of Directors is expressly authorized to make, alter or repeal Bylaws of the Corporation.

## ARTICLE VI

Elections of directors need not be by written ballot unless otherwise provided in the Bylaws of the Corporation.

## ARTICLE VII

(A) To the fullest extent permitted by the Delaware General Corporation Law, as the same exists or as may hereafter be amended, a director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director.

(B) The Corporation shall indemnify to the fullest extent permitted by law any person made or threatened to be made a party to an action or proceeding, whether criminal, civil, administrative or investigative, by reason of the fact that he, his testator or intestate is or was a director or officer of the Corporation or any predecessor of the Corporation, or serves or served at any other enterprise as a director or officer at the request of the Corporation or any predecessor to the Corporation.

(C) Neither any amendment nor repeal of this Article VII, nor the adoption of any provision of the Corporation's Certificate of Incorporation inconsistent with this Article VII, shall eliminate or reduce the effect of this Article VII in respect of any matter occurring, or any action or proceeding accruing or arising or that, but for this Article VII, would accrue or arise, prior to such amendment, repeal or adoption of an inconsistent provision."

* * *



TRADEMARK
REEL: 004704 FRAME: 0684

The foregoing Amended and Restated Certificate of Incorporation has been duly adopted by this corporation's Board of Directors and stockholders in accordance with the applicable provisions of Sections 228, 242 and 245 of the Delaware General Corporation Law.

Executed as of April 12, 2011.

/s/ Nathaniel Stevens
Nathaniel Stevens
Chief Executive Officer



TRADEMARK
RECORDED: 01/25/2012
REEL: 004704 FRAME: 0685