

TRADEMARK ASSIGNMENT

Electronic Version v1.1  
 Stylesheet Version v1.1

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

<b>CONVEYING PARTY DATA</b>			
Name	Formerly	Execution Date	Entity Type
Global Rainmakers, Inc.		12/22/2011	CORPORATION: PUERTO RICO

<b>RECEIVING PARTY DATA</b>	
Name:	EyeLock, Inc.
Street Address:	West Industrial Park 14A Bay #3
Internal Address:	Tolima Valley
City:	Caguas
State/Country:	PUERTO RICO
Postal Code:	00725
Entity Type:	CORPORATION: PUERTO RICO

<b>PROPERTY NUMBERS Total: 12</b>		
Property Type	Number	Word Mark
Registration Number:	3945820	BIOTAG
Registration Number:	3757165	ENROLLMENT ON THE FLY
Registration Number:	3760520	EYENROLL
Registration Number:	4001868	EYESWIPE-NANO
Registration Number:	3561612	HBOX
Registration Number:	3638484	EYESWIPE
Registration Number:	3946099	EYELOCK
Registration Number:	3597821	HCAM
Registration Number:	3620194	HBOX
Registration Number:	3498866	HCUBE
Registration Number:	3760555	IDENTIFICATION IN ANONYMITY
Registration Number:	3757045	SAMBI

OP \$315.00 3945820

**CORRESPONDENCE DATA**

Fax Number: (914)619-5565  
Phone: 914-619-5565  
Email: dstrauss@eyelock.com

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

Correspondent Name: EyeLock Corporation  
Address Line 1: 355 Lexington Avenue  
Address Line 2: 12th Floor  
Address Line 4: New York, NEW YORK 10017

NAME OF SUBMITTER:	David Strauss
Signature:	/David Strauss/
Date:	02/29/2012

Total Attachments: 25  
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Gobierno de Puerto Rico  
Government of Puerto Rico  
DEPARTAMENTO DE ESTADO  
Department of State

CERTIFICADO DE ENMIENDA DEL CERTIFICADO DE INCORPORACIÓN  
DESPUÉS DE RECIBIRSE PAGOS CON CARGO AL CAPITAL  
CERTIFICATE OF AMENDMENT OF THE CERTIFICATE OF INCORPORATION  
AFTER THE RECEIPT OF PAYMENT OF CAPITAL

Registro número: 157562  
Registration number:

PRIMERO: Que en una reunión de la Junta de Directores de:  
FIRST: That at a meeting of the Board of Directors of: Global Rainmakers, Inc.

debidamente convocada y celebrada, se adoptó una resolución en la cual consta una(s) enmienda(s) propuesta(s) al Certificado de Incorporación de dicha corporación, consignando la conveniencia de dichas(s) enmienda(s), y convocando una reunión de los accionistas de dicha corporación para la consideración de la(s) misma(s) o instruyendo que la(s) enmienda(s) propuesta(s) se considere(n) en la próxima reunión anual de accionistas la resolución en la cual consta la(s) enmienda(s) propuesta(s) lee como sigue:  
duty called and held, a resolution was adopted setting forth (a) proposed amendment(s) to the Certificate of Incorporation of said corporation, declaring said amendment(s) to be advisable and calling a special meeting of the stockholders of said corporation for consideration thereof. The resolution setting forth the proposed amendment(s) reads as follows:

RESUELVASE que el Certificado de Incorporación de esta Corporación quede enmendado en su(s) Artículo(s)  
RESOLVED, that the Certificate of Incorporation of this corporation be amended by changing Article(s)  
First; Fourth para que éste/éstos lea(n) como sigue:  
see attached (ver adjunto) so that it/they read(s) as follows:

SEGUNDO: Que posteriormente, conforme a la resolución de la Junta de Directores, se celebró una reunión extraordinaria o reunión anual, convocada y celebrada según el Artículo 7.12 de la Ley General de Corporaciones en la cual votaron a favor de la(s) enmienda(s) propuesta(s) la mayoría de las acciones de capital en circulación con derecho al voto y la mayoría de las acciones en circulación de cada clase con derecho al voto como clase.  
SECOND: That thereafter, pursuant to the resolution of its Board of Directors, a special meeting or annual meeting was called and held pursuant to Article 7.12 of the General Corporation Law of 1995, in which a majority of the capital stockholder with voting rights and the majority of the stockholders of each class with voting rights voted as a class in favor with voting rights and the majority of the stockholders of each class with voting rights voted as a class in thereof.

EN TESTIMONIO DE LO CUAL, Yo, Felix Cruz Garcia  
el suscribiente, siendo el oficial autorizado de la corporación, juro que los datos contenidos en este certificado son ciertos, hoy, día, 22 del mes de diciembre del año 2011.  
IN WITNESS WHEREOF, I, \_\_\_\_\_  
the undersigned, being the authorized officer of the corporation, hereby swear that the facts herein stated in this certificate are true, this \_\_\_\_\_ day of \_\_\_\_\_.

Oficial Autorizado  
Authorized Officer

Cifra de Ingreso  
5133 - \$8.00  
5134 - \$12.00

FOURTH AMENDED AND RESTATED  
CERTIFICATE OF INCORPORATION  
OF  
GLOBAL RAINMAKERS, INC.

Global Rainmakers, Inc. (this "**Corporation**"), a Puerto Rico corporation organized and existing under and by virtue of the provisions of Law #144 of August 10, 1995, as amended (hereinafter referred to as the "**General Corporation Law**"),

**DOES HEREBY CERTIFY:**

1. That the name of this Corporation is Global Rainmakers, Inc., and that this Corporation was originally incorporated pursuant to the General Corporation Law on November 3, 2005.

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

**RESOLVED**, that the Certificate of Incorporation of this Corporation be amended and restated in its entirety to read as follows:

**FIRST:** The name of this Corporation is **EyeLock, Inc.** (the "**Corporation**").

**SECOND:** The principal office of the Corporation is West Industrial Park 14A Bay #3, Tolima Valley, Caguas, Puerto Rico 00725, with a mailing address of P.O. Box 9024010, San Juan, Puerto Rico 00902. The name of the resident agent of the Corporation is Anibal Lugo-Miranda, Esq. and the address of the Resident Agent is West Industrial Park 14A Bay #3, Tolima Valley, Caguas, Puerto Rico 00725, with a mailing address of P.O. Box 9024010, San Juan, Puerto Rico 00902.

**THIRD:** This is a for-profit corporation and the nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law.

**FOURTH:** The total number of shares of all classes of stock which the Corporation shall have authority to issue is **675,000,000**, of which **50,000,000** are Series B-1 Preferred Stock, par value \$0.01 per share (the "**Series B-1 Preferred Stock**"), **75,000,000** are Series B Preferred Stock, par value \$0.01 per share (the "**Series B Preferred Stock**"), **50,000,000** are Series A Preferred Stock, par value \$0.01 per share (the "**Series A Preferred Stock**" and together with the Series B-1 Preferred Stock and the Series B Preferred Stock, the "**Series Preferred Stock**"), and **500,000,000** are Class A Common Stock, par value \$1.00 per share (the "**Class A Common Stock**"). All issued shares of the Corporation's former Participating Preferred Stock, par value \$0.01, are hereby redesignated as the Series A Preferred Stock.

The following is a statement of the designations and the powers, privileges, and rights, and the qualifications, limitations or restrictions thereof in respect of each class of stock of the Corporation. Unless otherwise indicated, references to "Sections" or "Subsections" in this Article Fourth refer to sections and subsections of this Article Fourth.

1. Dividends. When, as and if declared by the Board of Directors, the record holders of shares of Series B-1 Preferred Stock, Series B Preferred Stock, Series A Preferred Stock, and Class A Common Stock shall be entitled to receive dividends per share declared on such stock out of any assets legally available for such purpose as set forth below:

1.1 The record holders of Series B-1 Preferred Stock, in preference to the holders of any shares of Series B Preferred Stock, Series A Preferred Stock, or Class A Common Stock, shall be entitled to receive, *pari passu*, dividends on each share of Series B-1 Preferred Stock (the "**Series B-1 Dividends**") accrued at a rate per annum equal to the Series B-1 Original Issue Price multiplied by (i) 15% for the first 12 months following the original issue date of the Series B-1 Preferred Stock (the "**Initial Series B-1 Dividend Period**"), and (ii) 10% for all periods thereafter. Unless dividends for the Initial Series B-1 Dividend Period are declared and paid in cash within thirty (30) days after the Initial Series B-1 Dividend Period, such dividends shall be paid by issuing to each holder of shares of Series B-1 Preferred Stock, prior to the end of such 30-day period, additional shares of Series B-1 Preferred Stock in the ratio of 5,714 shares per \$1,000 of dividends accrued for the Initial Series B-1 Dividend Period and not paid in cash. The Series B-1 Dividends shall accrue from day-to-day, whether or not declared, shall be cumulative, and to the extent not declared and paid shall be compounded annually, on each anniversary of the original issue date of the Series B-1 Preferred Stock, by adding the amount thereof to the Series B-1 Original Issue Price for purposes of determining subsequent accruals of Series B-1 Dividends. As used herein, "**Series B-1 Original Issue Price**" shall mean \$0.175 per share for each share of Series B-1 Preferred Stock, subject to appropriate adjustment in the event of any stock dividend, stock split, combination, or other similar recapitalization.

1.2 After the payment in full or setting aside for payment in full of the Series B-1 Liquidation Amount, the record holders of Series B Preferred Stock, in preference to the holders of any shares of Series A Preferred Stock or Class A Common Stock, shall be entitled to receive, *pari passu*, dividends on each share of Series B Preferred Stock (the "**Series B Dividends**") accrued at a rate per annum equal to the Series B Original Issue Price multiplied by 10%. The Series B Dividends shall accrue from day-to-day, whether or not declared, shall be cumulative, and to the extent not declared and paid shall be compounded annually, on each anniversary of the original issue date of the Series B Preferred Stock, by adding the amount thereof to the Series B Original Issue Price for purposes of determining subsequent accruals of Series B Dividends. As used herein, "**Series B Original Issue Price**" shall mean \$0.175 per share for each share of Series B Preferred Stock, subject to appropriate adjustment in the event of any stock dividend, stock split, combination, or other similar recapitalization.

1.3 After the payment in full or setting aside for payment in full of the Series B-1 Liquidation Amount and the Series B Liquidation Amount, the record holders of Series A Preferred Stock, in preference to the holders of any shares of Class A Common Stock, shall be entitled to receive, *pari passu*, dividends on each share of Series A Preferred Stock (the "**Series A Dividends**") accrued at a rate per annum equal to the Series A Original Issue Price multiplied

by 10%. The Series A Dividends shall accrue from day-to-day, whether or not declared, shall be cumulative, and to the extent not declared and paid shall be compounded annually, on each anniversary of the original issue date of the Series A Preferred Stock, by adding the amount thereof to the Series A Original Issue Price for purposes of determining subsequent accruals of Series A Dividends. As used herein, "Series A Original Issue Price" shall mean, for each share of Series A Preferred Stock, the amount originally paid for such share when it was issued by the Corporation, and with respect to Series A Preferred Stock originally issued as Participating Preferred Stock upon conversion of Convertible Promissory Notes previously issued by the Corporation, the amount originally paid for such shares shall be equal to the dollar amount of Notes per share so converted, in each case subject to appropriate adjustment in the event of any stock dividend, stock split, combination, or other similar recapitalization.

1.4 Subject to the dividend rights of the holders of the Series B-1 Preferred Stock, the Series B Preferred Stock, and the Series A Preferred Stock, the holders of the Class A Common Stock shall be entitled to receive dividends out of any funds of the Corporation at the time legally available for such purpose, when, as, and if declared by the Board of Directors. In the case of dividends or other distributions payable in shares of Series B-1 Preferred Stock, Series B Preferred Stock, Series A Preferred Stock, or Class A Common Stock, including distributions pursuant to stock splits or divisions, only shares of Series B-1 Preferred Stock shall be distributed with respect to Series B-1 Preferred Stock, only shares of Series B Preferred Stock shall be distributed with respect to Series B Preferred Stock, only Series A Preferred Stock shall be distributed with respect to Series A Preferred Stock, and only shares of Class A Common Stock shall be distributed with respect to Class A Common Stock.

1.5 The Corporation shall not declare, pay, or set aside any dividends on any shares of Series B Preferred Stock, Series A Preferred Stock, or Class A Common Stock until the holders of Series B-1 Preferred Stock have received the full Series B-1 Liquidation Amount; thereafter, the Corporation shall not declare, pay, or set aside any dividends on any shares of Series A Preferred Stock or Class A Common Stock until the holders of Series B Preferred Stock have received the full Series B Liquidation Amount; and thereafter, the Corporation shall not declare, pay, or set aside any dividends on any shares of Class A Common Stock until the holders of Series A Preferred Stock have received the full Series A Liquidation Amount.

1.6 To the extent dividends or distributions are declared by the Board of Directors and paid to any holder of shares of Series B-1 Preferred Stock, Series B Preferred Stock or Series A Preferred Stock in amounts that exceed the aggregate accrued and unpaid dividends on such shares, such excess amounts ("Excess Distributions") shall, if so directed by the Board of Directors, be applied (a) to reduce the Series B-1 Original Issue Price, the Series B Original Issue Price or the Series A Original Issue Price, as applicable, of such shares solely for the purposes of this Section 1 and the calculation of subsequent accruals of dividends on such shares, and (b) to reduce the Series B-1 Liquidation Amount, Series B Liquidation Amount or the Series A Liquidation Amount, as applicable, as used in determining the amount payable pursuant to Section 2 to the holder of such shares upon a Liquidation Event or Deemed Liquidation Event. Excess Distributions paid to any holder of shares of Series B-1 Preferred Stock, Series B Preferred Stock or Series A Preferred Stock within the period of ninety (90) days preceding the completion of any Liquidation Event or Deemed Liquidation Event shall, however,

be credited against any amounts, however calculated, payable pursuant to Section 2 to such holder in connection with such Liquidation Event or Deemed Liquidation Event.

2. Liquidation, Dissolution or Winding Up; Certain Deemed Liquidation Events.

2.1 Preferential Payments to Holders of Series B-1 Preferred Stock. In the event of any voluntary or involuntary liquidation, dissolution, or winding up of the Corporation (a "**Liquidation Event**"), the holders of shares of the Series B-1 Preferred Stock then outstanding, on a *pari passu* basis, shall be entitled to be paid out of the assets of the Corporation legally available for distribution to its stockholders before any other payment shall be made to the holders of the Series B Preferred Stock, the Series A Preferred Stock, the Class A Common Stock, or any other class or series of capital stock ranking on liquidation junior to the Series B-1 Preferred Stock by reason of their ownership thereof, an amount per share equal to the greater of (a) the Series B-1 Liquidation Amount, plus any accrued and unpaid Series B-1 Dividends to the extent not included in the Series B-1 Liquidation Amount, plus any other dividend declared but unpaid thereon, or (b) such amount per share as would have been payable had all shares of Series B-1 Preferred Stock been converted into Class A Common Stock pursuant to Section 7 immediately prior to such liquidation, dissolution or winding up. If upon any Liquidation Event the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of shares of Series B-1 Preferred Stock the full amount to which they shall be entitled under this Section 2.1, the holders of shares of Series B-1 Preferred Stock shall share ratably in any distribution of the assets available for distribution in proportion to the respective amounts which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full. As used herein, "**Series B-1 Liquidation Amount**" of any share shall mean the Series B-1 Original Issue Price, plus any accrued and unpaid Series B-1 Dividends on such share, and minus the amount of any payments credited against the Series B-1 Liquidation Amount pursuant to Section 1.6.

2.2 Preferential Payments to Holders of Series B Preferred Stock. In the event of any Liquidation Event, after the payment of all preferential amounts required to be paid to the holders of shares of the Series B-1 Preferred Stock pursuant to Section 2.1 above, the holders of shares of the Series B Preferred Stock then outstanding, on a *pari passu* basis, shall be entitled to be paid out of the assets of the Corporation legally available for distribution to its stockholders before any other payment shall be made to the holders the Series A Preferred Stock, the Class A Common Stock, or any other class or series of capital stock ranking on liquidation junior to the Series B Preferred Stock by reason of their ownership thereof, an amount per share equal to the greater of (a) the Series B Liquidation Amount, plus any accrued and unpaid Series B Dividends to the extent not included in the Series B Liquidation Amount, plus any other dividend declared but unpaid thereon, or (b) such amount per share as would have been payable had all shares of Series B Preferred Stock been converted into Class A Common Stock pursuant to Section 7 immediately prior to such liquidation, dissolution or winding up. If upon any Liquidation Event, the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of shares of the Series B Preferred Stock the full amount to which they shall be entitled under this Section 2.2, the holders of shares of Series B Preferred Stock shall share ratably in any distribution of the assets available for distribution in proportion to the respective amounts which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full. As used

herein, “**Series B Liquidation Amount**” of any share shall mean the Series B Original Issue Price, plus any accrued and unpaid Series B Dividends on such share, and minus the amount of any payments credited against the Series B Liquidation Amount pursuant to Section 1.6.

2.3 Preferential Payments to Holders of Series A Preferred Stock. In the event of any Liquidation Event, after the payment of all preferential amounts required to be paid to the holders of shares of the Series B-1 Preferred Stock pursuant to Section 2.1 and to the holders of the shares of the Series B Preferred Stock pursuant to Section 2.2, the holders of shares of the Series A Preferred Stock then outstanding, on a *pari passu* basis, shall be entitled to be paid out of the assets of the Corporation legally available for distribution to its stockholders before any other payment shall be made to the holders the Class A Common Stock, or any other class or series of capital stock ranking on liquidation junior to the Series A Preferred Stock by reason of their ownership thereof, an amount per share equal to the greater of (a) the Series A Liquidation Amount, plus any accrued and unpaid Series A Dividends to the extent not included in the Series A Liquidation Amount, plus any other dividend declared but unpaid thereon, or (b) such amount per share as would have been payable had all shares of Series A Preferred Stock been converted into Class A Common Stock pursuant to Section 7 immediately prior to such liquidation, dissolution or winding up. If upon any such Liquidation Event, the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of shares of the Series A Preferred Stock the full amount to which they shall be entitled under this Section 2.3, the holders of shares of the Series A Preferred Stock shall share ratably in any distribution of the assets available for distribution in proportion to the respective amounts which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full. As used herein, “**Series A Liquidation Amount**” of any share shall mean the Series A Original Issue Price, multiplied by a factor of two (2), plus any accrued and unpaid Series A Dividends on such share, and minus the amount of any payments credited against the Series A Liquidation Amount pursuant to Section 1.6.

2.4. Payments to Holders of Class A Common Stock. In the event of a Liquidation Event, after the payment of all preferential amounts required to be paid to the holders of shares of the Series B-1 Preferred Stock pursuant to Section 2.1, the holders of the Series B Preferred Stock pursuant to Section 2.2, and the holders of the Series A Preferred Stock pursuant to Section 2.3, the remaining assets of the Corporation available for distribution to its stockholders shall be distributed among the holders of shares of the Class A Common Stock, pro rata on the number of shares held by each such holder.

2.5. Deemed Liquidation Events.

2.5.1 Definition. Each of the following events shall be considered a “**Deemed Liquidation Event**,” unless the holders of at least a majority of the then outstanding shares of the Series B-1 Preferred Stock and the Series B Preferred Stock, voting together as a single class on an as-converted basis, elect otherwise by written notice sent to the Corporation at least 10 days prior to the effective date of any such event:

(a) a merger, consolidation or share exchange in which the Corporation is a constituent party, or a subsidiary of the Corporation is a constituent party and



the Corporation issues shares of its capital stock pursuant to such merger or consolidation, except any such merger or consolidation involving the Corporation or a subsidiary in which the shares of capital stock of the Corporation outstanding immediately prior to such merger or consolidation continue to represent, or are converted into or exchanged for shares of capital stock that represent, immediately following such merger or consolidation, at least a majority, by voting power, of the capital stock of (1) the surviving or resulting corporation; or (2) if the surviving or resulting corporation is a wholly-owned subsidiary of another corporation immediately following such merger or consolidation, the parent corporation of such surviving or resulting corporation (provided that, for the purpose of this Subsection 2.5.1, all shares of Class A Common Stock issuable upon the exercise of Options (as that term is defined in Section 4.2.1) outstanding immediately prior to such merger or consolidation or upon conversion of Convertible Securities (as that term is defined in Section 4.2.1) outstanding immediately prior to such merger or consolidation shall be deemed to be outstanding immediately prior to such merger or consolidation and, if applicable, converted or exchanged in such merger or consolidation on the same terms as the actual outstanding shares of Class A Common Stock are converted or exchanged);

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

(c) the Corporation's first underwritten public offering of its Class A Common Stock under the Securities Act (a "**Qualifying IPO**"). In the event of a Qualifying IPO, the payment of the liquidation preference attributable to the Series Preferred Stock may be arranged through the issuance of additional shares of the Corporation's securities at no cost to, and at the option of, each holder of shares of the Series Preferred Stock.

2.5.2 Effecting a Deemed Liquidation Event. The Corporation shall not have the power to effect a Deemed Liquidation Event referred to in Subsection 2.5.1 unless such transaction provides that the consideration payable to the Corporation or the stockholders of the Corporation in such transaction shall be allocated among the holders of capital stock of the Corporation in accordance with Sections 2.1-2.4.

2.5.3 Amount Deemed Paid or Distributed. The amount deemed paid or distributed to the holders of capital stock of the Corporation upon any such Deemed Liquidation Event shall be the cash or the value of the property, rights or securities paid or distributed to such holders by the Corporation or the acquiring person, firm or other entity. The value of such property, rights or securities shall be determined in good faith by the Board of Directors of the Corporation.

3. Voting.

3.1 General.

3.1.1. On any matter presented to the stockholders of the Corporation for their action or consideration at any meeting of stockholders of the Corporation (or by written consent of stockholders in lieu of meeting), each holder of outstanding shares of Series B-1 Preferred Stock and Series B Preferred Stock shall be entitled to cast the number of votes equal to the number of whole shares of Class A Common Stock into which the shares of Series B-1 Preferred Stock and the Series B Preferred Stock held by such holder are convertible as of the record date for determining stockholders entitled to vote on such matter. On any matter requiring a vote of stockholders by class or series of capital stock, the holders of the Series B-1 Preferred Stock and the Series B Preferred Stock shall vote together as a single class.

3.1.2 On any matter presented to the stockholders of the Corporation for their action or consideration at any meeting of stockholders of the Corporation (or by written consent of stockholders in lieu of meeting), each holder of outstanding shares of Series A Preferred Stock shall be entitled to cast the number of votes equal to the number of whole shares of Class A Common Stock into which the shares of Series A Preferred Stock held by such holder are convertible as of the record date for determining stockholders entitled to vote on such matter.

3.1.3 Except as provided by law or any provision of this Certificate of Incorporation, holders of Series A Preferred Stock shall vote together with the holders of Class A Common Stock as a single class.

4. Full Ratchet Anti-Dilution Protection.

4.1 Adjustments to Shares of Series Preferred Stock.

4.1.1 To protect the holders of Series Preferred Stock against dilution, the Corporation shall issue additional shares of Series Preferred Stock to such holders as and when required pursuant to this Section 4. The numbers of additional shares to be issued shall be based on adjustments to the Series B-1 Original Issue Price, Series B Original Issue Price or Series A Original Issue Price (each, a "Series Preferred Issue Price"), as applicable, from time to time as hereinafter provided. Upon each adjustment of the Series Preferred Issue Price, each holder of Series Preferred Stock shall thereafter be entitled to receive from the Corporation the number of additional shares of Series Preferred Stock equal to (A) the Series Preferred Issue Price in effect immediately prior to such adjustment, multiplied by the number of such holder's shares of Series Preferred Stock immediately prior to such adjustment, and divided by the Series Preferred Issue Price resulting from such adjustment, minus (B) the number of such holder's shares of Series Preferred Stock immediately prior to such adjustment.

4.1.2 No adjustment of the Series Preferred Issue Price or the shares of Series Preferred Stock shall be made in connection with the issuance by the Corporation of shares of Class A Common Stock, Options, or Convertible Securities (i) to employees, consultants, officers or directors of the Corporation pursuant to stock purchase or stock option plans approved by the Board of Directors; (ii) in connection with acquisition transactions

approved by the Board of Directors; (iii) to financial institutions or lessors in connection with commercial credit arrangements or equipment financings or similar transactions approved by the Board of Directors; and (iv) in a Qualifying IPO. Each adjustment of the Series Preferred Issue Price and the shares of Series Preferred Stock shall, however, take into account the shares to be issued to holders of Series Preferred Stock pursuant to this Section 4.

4.2 Series Preferred Issue Price Adjustments. If and whenever after the date hereof the Corporation shall issue or sell any shares of Class A Common Stock for a consideration per share less than the Series Preferred Issue Price in effect immediately prior to the time of such issue or sale, or shall be deemed under the provisions of this Section 4 to have effected any such issuance or sale, then, forthwith upon such issue or sale, the Series Preferred Issue Price shall be reduced to the consideration per share received by the Corporation upon such issue or sale; provided that if such issuance or deemed issuance was without consideration, then the Corporation shall be deemed to have received an aggregate of \$0.001 of consideration for all such shares of Class A Common Stock issued or deemed to be issued. For the purposes of this Subsection 4.2, the following Subsections 4.2.1 to 4.2.7, inclusive, shall also be applicable:

4.2.1 In the event that at any time after the date hereof the Corporation shall in any manner grant, issue or sell (directly, by assumption in a merger or otherwise) any rights or warrants to subscribe for or to purchase, or any options for the purchase of, Class A Common Stock or any stock or securities convertible into or exchangeable for Class A Common Stock (such rights, warrants or options being herein called "**Options**" and such convertible or exchangeable stock or securities being herein called "**Convertible Securities**"), whether or not such Options or the right to convert or exchange any such Convertible Securities are immediately exercisable, and the price per share for which Class A Common Stock is issuable upon the exercise of such Options or upon conversion or exchange of such Convertible Securities (determined by dividing (i) the total amount, if any, received or receivable by the Corporation as consideration for the granting of such Options, plus the minimum aggregate amount of additional consideration payable to the Corporation upon the exercise of all such Options, plus, in the case of any such Options which relate to Convertible Securities, the minimum aggregate amount of additional consideration, if any, payable upon the issue or sale of such Convertible Securities and upon the conversion or exchange thereof, by (ii) the total number of shares of Class A 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) shall be less than the Series Preferred Issue Price in effect immediately prior to the time of the granting, issuance or sale of such Options, then the maximum number of shares of Class A Common Stock issuable upon the exercise of such Options or upon conversion or exchange of the maximum amount of such Convertible Securities issuable upon the exercise of such Options shall (as of the date of granting, issuance or sale of such Options) be deemed to be outstanding and to have been issued for such price per share. Except as otherwise provided in Subsection 4.2.3, no further adjustment of the Series Preferred Issue Price shall be made upon the actual issuance of such Class A Common Stock or of such Convertible Securities upon the exercise of such Options or upon the actual issuance of such Class A Common Stock upon the conversion or exchange of such Convertible Securities.

4.2.2 In the event that after the date hereof the Corporation shall in any manner issue (directly, by assumption in a merger or otherwise) or sell any Convertible Securities (other than pursuant to the exercise of Options to purchase such Convertible Securities covered by Subsection 4.2.1, whether or not the rights to exchange or convert thereunder are immediately exercisable, and the price per share for which Class A Common Stock is issuable upon such conversion or exchange (determined by dividing (i) 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 (ii) the total maximum number of shares of Class A Common Stock issuable upon the conversion or exchange of all such Convertible Securities) shall be less than the Series Preferred Issue Price in effect immediately prior to the time of such issue or sale, then the total maximum number of shares of Class A Common Stock issuable upon conversion or exchange of all such Convertible Securities shall (as of the date of the issue or sale of such Convertible Securities) be deemed to be outstanding and to have been issued for such price per share, provided that, except as otherwise provided in Subsection 4.2.3, no further adjustment of the Series Preferred Issue Price shall be made upon the actual issuance of such Class A Common Stock upon the conversion or exchange of such Convertible Securities.

4.2.3 In connection with any change in, or the expiration or termination of, the purchase rights under any Option or the conversion or exchange rights under any Convertible Securities, the following provisions shall apply:

(a) If the purchase price provided for in any Option referred to in Subsection 4.2.1, the additional consideration, if any, payable upon the conversion or exchange of any Convertible Securities referred to in Subsection 4.2.1 or 4.2.2, or the rate at which any Convertible Securities referred to in Subsection 4.2.1 or 4.2.2 are convertible into or exchangeable for Class A Common Stock shall change at any time (other than under or by reason of provisions designed to protect against dilution), then the Series Preferred Issue Price in effect at the time of such change shall forthwith be increased or decreased to the Series Preferred Issue Price which would be in effect immediately after such change if (a) the adjustments which were made upon the issuance of such Options or Convertible Securities had been made upon the basis of (and taking into account the total consideration received as a result of) (i) the issuance at that time of the Class A Common Stock, if any, delivered upon the exercise of any such Options or upon the conversion or exchange of any such Convertible Securities before such change, and (ii) the issuance at that time of all such Options or Convertible Securities, with terms and provisions reflecting such change, which are still outstanding after such change; and (b) the Series Preferred Issue Price as adjusted pursuant to clause (a) preceding had been used as the basis for the adjustments required hereunder in connection with all other issues or sales of Class A Common Stock, Options or Convertible Securities by the Corporation subsequent to the issuance of such Options or Convertible Securities.

(b) On the partial or complete expiration of any Options or termination of any right to convert or exchange Convertible Securities, the Series Preferred Issue Price then in effect hereunder shall forthwith be increased or decreased to the Series Preferred Issue Price which would be in effect at the time of such expiration or termination if (a) the adjustments which were made upon the issuance of such Options or Convertible Securities had

been made upon the basis of (and taking into account the total consideration received for) (i) the issuance at that time of the Class A Common Stock, if any, delivered upon the exercise of such Options or upon the conversion or exchange of such Convertible Securities before such expiration or termination; and (ii) the issuance at that time of only those such Options or Convertible Securities which remain outstanding after such expiration or termination, and (b) the Series Preferred Issue Price as adjusted pursuant to clause (a) preceding had been used as the basis for adjustments required hereunder in connection with all other issues or sales of Class A Common Stock, Options or Convertible Securities by the Corporation subsequent to the issuance of such Options or Convertible Securities.

(c) If the purchase price provided for in any Option referred to in Subsection 4.2.1 or the rate at which any Convertible Securities referred to in Subsection 4.2.1 or 4.2.2 are convertible into or exchangeable for Class A Common Stock shall be reduced at any time under or by reason of provisions with respect thereto designed to protect against dilution, and the event causing such reduction is one that did not also require an adjustment in the Series Preferred Issue Price under other provisions of this Subsection 4.2, then in case of the delivery of shares of Class A Common Stock upon the exercise of any such Option or upon conversion or exchange of any such Convertible Securities, the Series Preferred Issue Price then in effect hereunder shall forthwith be adjusted to such amount as would have obtained if such Option or Convertible Securities had never been issued and if the adjustments made upon the issuance of such Option or Convertible Securities had been made upon the basis of the issuance of (and taking into account the total consideration received for) the shares of Class A Common Stock delivered as aforesaid (provided that the Series Preferred Issue Price used in such determination shall be as of the date of issue of such Option or Convertible Securities).

4.2.4 In the event that the Corporation shall declare a dividend or make any other distribution upon any stock of the Corporation payable in Class A Common Stock, Options, or Convertible Securities, any Class A Common Stock, Options, or Convertible Securities, as the case may be, issuable in payment of such dividend or distribution shall be deemed to have been issued or sold without consideration.

4.2.5 For purposes of this Subsection 4.2, the amount of consideration received by the Corporation in connection with the issuance or sale of Class A Common Stock, Options, or Convertible Securities shall be determined in accordance with the following:

(a) In the event that shares of Class A Common Stock, Options, or Convertible Securities shall be issued or sold for cash, the consideration received therefor shall be deemed to be the amount received by the Corporation therefore, without deduction therefrom of any expenses incurred or any underwriting commissions or concessions or discounts paid or allowed by the Corporation in connection therewith.

(b) In the event that any shares of Class A Common Stock, Options or Convertible Securities shall be issued or sold for a consideration other than cash, the amount of the consideration other than cash payable to the Corporation shall be deemed to be the fair value of such consideration as determined in good faith by the Board of Directors of the Corporation and reflected in a formal resolution of such Board of Directors, without deduction of

any expenses incurred or any underwriting commissions or concessions or discounts paid or allowed by the Corporation in connection therewith.

(c) The amount of consideration deemed to be received by the Corporation pursuant to the foregoing provisions of this Section 4 upon any issuance and/or sale, pursuant to an established compensation plan of the Corporation, to directors, officers, or employees of the Corporation in connection with their employment, of shares of Class A Common Stock, Options, or Convertible Securities, shall be increased by the amount of any net tax benefit realized by the Corporation as a result of such issuance and/or sale, the amount of such tax benefit being the amount by which the Federal and/or State income or other tax liability of the Corporation shall be reduced by reason of any deduction or credit in respect of such issuance and/or sale.

(d) In the event that any shares of Class A Common Stock, Options or Convertible Securities shall be issued 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, as determined in good faith by the Board of Directors of the Corporation and reflected in a formal resolution of such Board of Directors, of such portion of the assets and business of the non-surviving corporation as such Board of Directors shall determine to be attributable to such Class A Common Stock, Options, or Convertible Securities, as the case may be.

(e) In the event that any Class A Common Stock, Options or Convertible Securities shall be issued in connection with the issue and sale of other securities of the Corporation, together comprising one integral transaction in which no specific consideration is allocated to such Class A Common Stock, Options, or Convertible Securities by the parties thereto, the amount of consideration attributable therefor shall be deemed to be the fair value of such Class A Common Stock, Options, or Convertible Securities, as determined in good faith by the Board of Directors of the Corporation and reflected in a formal resolution of such Board of Directors.

(f) In the event of any consolidation or merger of the Corporation in which stock or securities of another corporation are issued in exchange for Class A Common Stock of the Corporation or in the event of any sale of all or substantially all of the assets of the Corporation for stock or other securities of another corporation, the Corporation shall be deemed to have issued a number of shares of its Class A Common Stock for stock or securities of the other corporation computed on the basis of the actual exchange ratio on which the transaction was predicated and for a consideration equal to the fair market value on the date of such transaction of such stock or securities of the other corporation, and if any such calculation results in adjustment of the Series Preferred Issue Price, the determination of the number of shares of outstanding Series Preferred Stock immediately prior to such merger, consolidation, or sale, for purposes of Subsection 4.2.7, shall be made after giving effect to such adjustment of the Series Preferred Issue Price.

(g) In the event that at any time the Corporation shall take a record of the holders of its Class A Common Stock for the purpose of entitling them to (i) receive a dividend or other distribution payable in Class A Common Stock, Options, or

Convertible Securities; or (ii) subscribe for or purchase Class A Common Stock, Options, or Convertible Securities, then such record date shall be deemed to be the date of the issuance or sale of the shares of Class A Common Stock deemed to have been issued or sold upon the declaration of such dividend or the making of such other distribution or the date of the granting of such right of subscription or purchase, as the case may be.

(h) The number of shares of Class A Common Stock outstanding at any given time shall not include shares owned or held by or for the account of the Corporation, and the disposition of any such shares shall be considered an issue or sale of Class A Common Stock for the purposes of this Subsection 4.2.

4.2.6 Stock Splits and Reverse Splits. In the event that the Corporation shall at any time subdivide its outstanding shares of Class A Common Stock into a greater number of shares, the Series Preferred Issue Price in effect immediately prior to such subdivision shall be proportionately reduced, and conversely, in the event that the outstanding shares of Class A Common Stock of the Corporation shall at any time be combined into a smaller number of shares, the Series Preferred Issue Price in effect immediately prior to such combination shall be proportionately increased. Except as provided in this Subsection 4.2.6, no adjustment in the Series Preferred Issue Price and no change in the number of shares of Series Preferred Stock shall be made under this Section 4 as a result of or by reason of any such subdivision or combination.

4.2.7 Reorganizations and Asset Sales. If any capital reorganization or reclassification of the capital stock of the Corporation, or any consolidation or merger of the Corporation with another corporation, or the sale of all or substantially all of its assets to another corporation shall be effected in such a way that holders of Class A Common Stock shall be entitled to receive stock, securities or assets with respect to or in exchange for Class A Common Stock, then the following provisions shall apply:

(a) As a condition of such reorganization, reclassification, consolidation, merger or sale (except as otherwise provided below in this Subsection 4.2.7), lawful and adequate provisions shall be made whereby each holder of Series Preferred Stock shall thereafter have the right to adjustments of the Series Preferred Issue Price and of the number of shares of Series Preferred Stock, in relation to any shares of stock, securities or assets deliverable upon by reason of such consolidation or merger.

(b) In the event of a merger or consolidation of the Corporation with or into another corporation as a result of which a number of shares of Class A Common Stock of the surviving corporation greater or lesser than the number of shares of Class A Common Stock of the Corporation outstanding immediately prior to such merger or consolidation are issuable to holders of Class A Common Stock of the Corporation, then (subject to Subsection 4.2.7(c)) the Series Preferred Issue Price in effect immediately prior to such merger or consolidation shall be adjusted in the same manner as though there were a subdivision or combination of the outstanding shares of Class A Common Stock of the Corporation.

(c) The Corporation shall not effect any such consolidation, merger or sale unless prior to or simultaneously with the consummation thereof the successor

corporation (if other than the Corporation) resulting from such consolidation or merger or the corporation purchasing such assets shall assume by written instrument executed and mailed or delivered to each holder of Series Preferred Stock at the last address of such holder appearing on the books of the Corporation, the obligation to deliver to such holder such shares of stock, securities or assets as, in accordance with the foregoing provisions, such holder may be entitled to receive, and all other liabilities and obligations of the Corporation hereunder.

4.3 Notice of Adjustment. Whenever the Series Preferred Issue Price and the number of shares of Series Preferred Stock shall be adjusted as herein provided, or the rights of holders of Series Preferred Stock shall change by reason of other events specified herein, the Corporation shall compute the adjusted Series Preferred Issue Price and the adjusted number of shares of Series Preferred Stock in accordance with the provisions hereof and shall prepare a certificate signed by its Chief Executive Officer, President, Chief Financial Officer, or any Vice President setting forth the adjusted Series Preferred Issue Price and the adjusted number of shares of Series Preferred Stock or specifying the other shares of stock, securities or assets receivable as a result of such change in rights, and showing in reasonable detail the facts and calculations upon which such adjustments or other changes are based, including a statement of the consideration received or to be received by the Corporation for, and the amount of, any Class A Common Stock, Options, and Convertible Securities issued since the last such adjustment or change (or since the date hereof in the case of the first adjustment or change). The Corporation shall cause to be mailed to each holder of Series Preferred Stock copies of such officer's certificate together with a notice stating that the Series Preferred Issue Price and the number of shares of Series Preferred Stock have been adjusted and setting forth the adjusted Series Preferred Issue Price and the adjusted number of shares of Series Preferred Stock to which such holder is entitled.

4.4 Notifications to Holders. In case at any time the Corporation proposes:

(a) to make or declare any dividend upon its Class A Common Stock whether in cash, stock or any other property;

(b) to issue any shares of Class A Common Stock, Options, or Convertible Securities (except pursuant to the exercise of Options or the conversion or exchange of Convertible Securities in accordance with their terms);

(c) to offer for subscription to any holder of its Class A Common Stock any additional shares of stock of any class or other rights;

(d) to effect any capital reorganization, or reclassification of the capital stock of the Corporation, or consolidation or merger of the Corporation with another corporation, or sale or other disposition of all or substantially all of its assets; or

(e) to effect a voluntary or involuntary dissolution, liquidation or winding up of the Corporation;

then, in any one or more of said cases, the Corporation shall give each holder of Series Preferred Stock (a) at least 20 days (but not more than 60 days) prior written notice of the date on which



the books of the Corporation shall close or a record shall be taken for such dividend, distribution, or subscription rights or for determining rights to vote in respect of any such issuance, reorganization, reclassification, consolidation, merger, sale, dissolution, liquidation or winding up; and (b) in the case of any such issuance, reorganization, reclassification, consolidation, merger, sale, dissolution, liquidation or winding up, at least 20 days (but not more than 60 days) prior written notice of the date when the same shall take place. Such notice in accordance with the foregoing clause (a) shall also specify, in the case of any such dividend, distribution, or subscription rights, the date on which the holders of Class A Common Stock shall be entitled thereto, and such notice in accordance with the foregoing clause (b) shall also specify the date on which the holders of Class A Common Stock shall be entitled to exchange their Class A Common Stock for securities or other property deliverable upon such reorganization, reclassification, consolidation, merger, sale, dissolution, liquidation or winding-up, as the case may be.

4.5 Disputes. In the event that there is any dispute as to the computation of the Series Preferred Issue Price or the number of shares of Series Preferred Stock required to be issued pursuant to this Section 4 (in which holders of 50% or more of the outstanding Series Preferred Stock shall join), the holders of Series Preferred Stock and the Corporation will retain an independent and nationally recognized accounting firm to conduct an audit of the computations pursuant to the terms hereof involved in such dispute, including the financial statements or other information upon which such computations were based. The determination of such nationally recognized accounting firm shall be binding upon the holders of Series Preferred Stock and the Corporation. If there shall be a dispute as to the selection of such nationally recognized accounting firm, such firm shall be appointed by the American Institute of Certified Public Accountants ("AICPA") if willing, otherwise the American Arbitration Association ("AAA"), upon application by the Corporation or any holder or holders of at least 50% of the outstanding Series Preferred Stock with notice to the others. If the price determined by such accounting firm is 10% or more lower or the number of shares of Series Preferred Stock as determined by such accounting firm is 10% or more higher respectively, than the price or number of shares of Series Preferred Stock computed by the Corporation, the expenses of such accounting firm and, if any, AICPA and AAA, shall be borne completely by the Corporation. In all other cases, they shall be borne completely by the disputing holders of Series Preferred Stock.

4.6 Issuance of New Certificates. Upon each adjustment of the Series Preferred Issue Price pursuant to this Section 4, the Corporation will issue to each holder of Series Preferred Stock a new certificate representing the additional shares of Series Preferred Stock to which such holder is entitled pursuant to this Section 4. All expenses, taxes (other than stock transfer taxes), and other charges payable in connection with the preparation, execution and delivery of certificates pursuant to this Section 4.6 shall be paid by the Corporation.

## 5. Redemption.

5.1 Redemption of Series B-1 Preferred Stock. At any time following the fourth (4<sup>th</sup>) anniversary of the Series B-1 Preferred Stock issue date, upon the written request of any holder of shares of Series B-1 Preferred Stock, all or any part of the shares of Series B-1 Preferred Stock of such holder shall be redeemed by the Corporation, out of funds of the Corporation lawfully available therefor, at a price (the "Series B-1 Redemption Price") per

share equal to the greater of (a) the Series B-1 Liquidation Amount thereof, as of the date of payment, and (b) the Fair Market Value Per Share (as that term is defined in Section 5.4) of the Series B-1 Preferred Stock with respect to each such share on the date of the redemption (“**Series B-1 Redemption Date**”); provided that such redemption shall be in accordance with, and subject to, the provisions of Article 5.14; 5.20; 5.22 and any other provision of the General Corporation Law that may be applicable to redemption of shares by the Corporation. If the Corporation does not have sufficient funds legally available to redeem on the Series B-1 Redemption Date all shares of Series B-1 Preferred Stock to be redeemed on such Series B-1 Redemption Date, the Corporation shall redeem a pro rata portion of each holder’s redeemable shares of such capital stock out of funds legally available therefor, based on the respective amounts which would otherwise be payable in respect of the shares to be redeemed if the legally available funds were sufficient to redeem all such shares, and shall redeem the remaining shares to have been redeemed as soon as practicable after the Corporation has funds legally available therefor.

5.2 Redemption of Series B Preferred Stock. At any time after the redemption in full of the Series B-1 Preferred Stock, and upon the written request of any holder of shares of Series B Preferred Stock, all or any part of the shares of Series B Preferred Stock of such holder shall be redeemed by the Corporation, out of funds of the Corporation lawfully available therefor, at a price (the “**Series B Redemption Price**”) per share equal to the greater of (a) the Series B Liquidation Amount thereof, as of the date of payment, and (b) the Fair Market Value Per Share (as that term is defined in Section 5.4) of the Series B Preferred Stock with respect to each such share on the date of the redemption (“**Series B Redemption Date**”); provided that such redemption shall be in accordance with, and subject to, the provisions of Article 5.14; 5.20; 5.22 and any other provision of the General Corporation Law that may be applicable to redemption of shares by the Corporation. If the Corporation does not have sufficient funds legally available to redeem on the Series B Redemption Date all shares of Series B Preferred Stock to be redeemed on such Series B Redemption Date, the Corporation shall redeem a pro rata portion of each holder’s redeemable shares of such capital stock out of funds legally available therefor, based on the respective amounts which would otherwise be payable in respect of the shares to be redeemed if the legally available funds were sufficient to redeem all such shares, and shall redeem the remaining shares to have been redeemed as soon as practicable after the Corporation has funds legally available therefor.

5.3 Redemption of Series A Preferred Stock. At any time after the redemption in full of the Series B-1 Preferred Stock and the Series B Preferred Stock, and upon the written request of any holder of shares of Series A Preferred Stock, all or any part of the shares of Series A Preferred Stock of such holder shall be redeemed by the Corporation, out of funds of the Corporation lawfully available therefor, at a price (the “**Series A Redemption Price**”) per share equal to the greater of (a) the Series A Liquidation Amount thereof, as of the date of payment, and (b) the Fair Market Value Per Share (as that term is defined in Section 5.4) of the Series A Preferred Stock with respect to each such share on the date of the redemption (“**Series A Redemption Date**”); provided that such redemption shall be in accordance with, and subject to, the provisions of Article 5.14; 5.20; 5.22 and any other provision of the General Corporation Law that may be applicable to redemption of shares by the Corporation. If the Corporation does not have sufficient funds legally available to redeem on the Series A Redemption Date all shares of Series A Preferred Stock to be redeemed on such Series A Redemption Date, the Corporation shall redeem a pro rata portion of each holder’s redeemable shares of such capital stock out of

funds legally available therefor, based on the respective amounts which would otherwise be payable in respect of the shares to be redeemed if the legally available funds were sufficient to redeem all such shares, and shall redeem the remaining shares to have been redeemed as soon as practicable after the Corporation has funds legally available therefor.

5.4 Determination of Fair Market Value Per Share of Series Preferred Stock. As used herein, "**Fair Market Value Per Share**" of Series Preferred Stock shall mean, with respect to any Series of Series Preferred Stock, the fair market value of all shares of such Series outstanding, divided by the number of shares of such Series outstanding. Fair Market Value Per Share initially shall be determined by the Board of Directors of the Corporation and reflected in a formal resolution adopted by the Board of Directors. In the event that within five (5) days after the holders of Series Preferred Stock being valued shall have received notice of the valuation by the Board of Directors the holders of not less than 50% of the then-issued and outstanding shares of such Series Preferred Stock being valued give the Corporation notice that such holders disagree with the Board's valuation, then the Fair Market Value Per Share shall be determined by an appraiser consisting of a nationally-recognized investment banking firm chosen by such objecting holders and the Corporation and the determination of such nationally recognized investment banking firm shall be binding upon such holders and the Corporation. If there shall be a dispute as to the selection of an appraiser, it shall be a nationally-recognized investment banking firm appointed by the American Arbitration Association ("AAA") upon application by the Corporation or a majority in interest of the disagreeing holders of Series Preferred Stock; the Corporation and such holders of Series Preferred Stock shall be afforded reasonable opportunities to discuss the appraisal with such appraiser. The fees and expenses of the appraiser and, if any, of the AAA shall be paid 50% by the Corporation and 50% by the holders of such Series Preferred Stock, unless such determination (i) results in a Fair Market Value Per Share greater than 110% of the Fair Market Value Per Share initially determined by the Board of Directors of the Corporation, in which case such fees and expenses shall be borne by the Corporation; or (ii) results in a Fair Market Value Per Share less than 90% of the Fair Market Value Per Share initially determined by the Board of Directors of the Corporation, in which case such fees and expenses shall be paid by the holders of such Series Preferred Stock.

5.5 Surrender of Certificates; Payment. On or before the applicable Redemption Date, each holder of shares of Series Preferred Stock to be redeemed on the Redemption Date shall surrender the certificate or certificates representing such shares (or, if such registered holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate) to the Corporation, in such manner and at such place designated by the Corporation, and thereupon the applicable Redemption Price for such shares shall be payable to the order of the person whose name appears on such certificate or certificates as the owner thereof. In the event less than all of the shares of Series Preferred Stock represented by a certificate are redeemed, a new certificate representing the unredeemed shares of Series Preferred Stock shall promptly be issued to such holder.

5.6 Rights Subsequent to Redemption. If on the applicable Redemption Date the applicable Redemption Price payable upon redemption of the shares of Series Preferred Stock to be redeemed on the applicable Redemption Date is paid or tendered for payment or deposited with an independent payment agent so as to be available therefor in a timely manner, then notwithstanding that the certificates evidencing any of the shares of Series Preferred Stock so called for redemption shall not have been surrendered, dividends with respect to such shares of Series Preferred Stock shall cease to accrue after such Redemption Date and all rights with respect to such shares shall forthwith after the applicable Redemption Date terminate, except only the right of the holders to receive the applicable Redemption Price without interest upon surrender of their certificate or certificates therefor.

5.7 Redeemed or Otherwise Acquired Shares. Any shares of Series Preferred Stock that are redeemed or otherwise acquired by the Corporation shall be automatically and immediately cancelled and retired and shall not be reissued, sold or transferred. The Corporation may not exercise any voting or other rights granted to the holders of Series Preferred Stock following redemption.

6. Prohibition of Certain Actions. The Corporation will not, without the consent of the holders of record of a majority of the shares of each affected class then outstanding, (i) reclassify any shares of Series Preferred Stock or Class A Common Stock into shares of another class; or (ii) adopt any amendment to this Fourth Amended and Restated Certificate of Incorporation that would have the effect of decreasing the rights of any Series Preferred Stock or Class A Common Stock to dividends or distributions in liquidation.

7. Conversion of Series Preferred Stock.

7.1 Voluntary Conversion of Series Preferred Stock. Any shares of Series Preferred Stock outstanding may be converted by the holder thereof into a like number of fully paid and non-assessable shares of Class A Common Stock in the manner hereinafter provided. Any holder of shares of Series Preferred Stock electing to convert all or any of such shares shall deliver written notice to the Corporation (which notice shall specify the date of such conversion, which shall not be more than thirty (30) days after the date of such notice).

7.2 Mandatory Conversion.

(a) Upon the closing of the sale of shares of Common Stock to the public in a firm-commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, then all outstanding Shares of Series Preferred Stock shall automatically be converted into shares of Class A Common Stock, at the then effective conversion rate.

(b) Upon the payment by the Corporation of the full Series B-1 Liquidation Amount of any shares of Series B-1 Preferred Stock or the full Series B Liquidation Amount of any shares of Series B Preferred Stock, then such shares shall automatically be converted into shares of Class A Common Stock, at the then effective conversion rate.

7.3 Manner of Conversion; Partial Conversion. On the date fixed for conversion of shares of Series Preferred Stock, the holder thereof shall surrender or deliver to the Corporation at its office the certificate representing such shares of Series Preferred Stock (the "Surrendered Stock Certificate"). Such conversion shall be deemed to have been effected immediately prior to the close of business on the day on which such Surrendered Stock Certificate shall have been so surrendered to the Corporation; and at such time, the holder or holders in whose name or names any certificate or certificates for shares of Class A Common Stock shall be issuable upon such conversion shall become the holder or holders of record thereof.

7.3 Delivery of Stock Certificates. As promptly as practicable after the conversion of any shares of Series Preferred Stock, and in any event within five (5) business days thereafter, the Corporation at its expense (including the payment by it of any applicable issue taxes) will issue and deliver to the holder of such shares, or as such holder may direct, a certificate or certificates for the number of full shares of Class A Common Stock issuable upon such conversion, plus, in the case of the conversion of less than all of the shares of Series Preferred Stock represented by a Surrendered Stock Certificate, a new certificate for a number of shares of Series Preferred Stock represented thereby equal to the unconverted shares represented by the Surrendered Stock Certificate (such new certificate to be dated so that there will be no loss of dividends, whether declared or undeclared, on the unconverted shares of represented by such Surrendered Stock Certificate).

7.4 Stock to Be Reserved. The Corporation will at all times reserve and keep available out of the authorized Class A Stock, solely for the purposes of issue upon the conversion of Series Preferred Stock as herein provided, such number of shares of Class A Stock as shall then be issuable upon the conversion of all Series Preferred Stock outstanding, and the Corporation will maintain at all times all other rights and privileges sufficient to enable it to fulfill all its obligations hereunder. All shares of Class A Common Stock which shall be issuable upon any such conversion shall, upon issuance, be duly authorized, validly issued, fully paid and non-assessable, free from preemptive or similar rights on the part of the holders of any shares of capital stock or securities of the Corporation or any other person, and free from all taxes, liens and charges with respect to the issue thereof. The Corporation will take all such action as may be necessary to assure that such shares of Class A Common Stock may be so issued without violation of any applicable law or regulation.

7.5 Closing of Books. The Corporation will at no time close its transfer books against the transfer of any shares of Class A Common Stock issued or issuable upon the conversion of any shares of Series Preferred Stock in any manner which interferes with the timely conversion of such Series Preferred Stock.

8. Waiver. Any of the rights, powers, restrictions and other terms of any class of capital stock set forth herein may be waived on behalf of all holders of such class by the affirmative written consent or vote of the holders of at least a majority of the shares of such class of capital stock then outstanding.

9. Notices. Any notice required or permitted by the provisions of this Article Fourth to be given to a holder of shares of Series Preferred Stock or Class A Common Stock shall be mailed, postage prepaid, to the post office address last shown on the records of the Corporation, or given by electronic communication in compliance with the provisions of the General Corporation Law, and shall be deemed sent upon such mailing or electronic transmission.

**FIFTH:** Subject to any additional vote required by the Certificate of Incorporation or Bylaws, in furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized to make, repeal, alter, amend and rescind any or all of the Bylaws of the Corporation.

**SIXTH:** Meetings of stockholders may be held within or outside the Commonwealth of Puerto Rico, as the Bylaws of the Corporation may provide. The accounting books, documents and other records (including inventory records) of the Corporation shall be kept at the Corporation's designated offices within the Commonwealth of Puerto Rico. Copies of the Corporation's books and records may be kept at such place or places as may be designated from time to time by the Board of Directors or in the Bylaws of the Corporation.

**SEVENTH:** For the management of the business and for the conduct of the affairs of the Corporation, and in further creation, definition, limitation and regulation of the powers of the Corporation and of its directors and stockholders, it is further provided:

A. The number of directors of the Corporation shall be five (5), and may be increased or decreased from time to time, as the Board of Directors deems necessary. Election of directors need not be by ballot. Meetings of the Board of Directors may be held at such place or places within or outside the Commonwealth of Puerto Rico, as shall be specified in the respective notices thereof or in the respective waivers of notice thereof signed by all the directors of the Corporation at the time in office.

B. In furtherance and not in limitation of the powers conferred by the laws of the Commonwealth of Puerto Rico, and subject at all times to the provisions thereof, the Board of Directors is expressly authorized and empowered:

1. To determine, from time to time, whether and to what extent and at what times and places and under what conditions and regulations the accounts and books and documents of the Corporation (other than the stock ledger) or any of them, shall be open to inspection by the stockholders and no stockholder shall have any right to inspect any account or book or document of the Corporation, except as conferred by the laws of the Commonwealth of Puerto Rico unless and until duly authorized to do so by resolution of the Board of Directors.

2. To authorize and issue obligations of the Corporation, secured or unsecured, to include therein such provisions as to redeemability, convertibility or otherwise, as the Board of Directors in its sole discretion may determine, and to authorize the mortgaging or pledging of, and to cause to be executed mortgages and liens upon, any property of the Corporation, real or personal, including after-acquired property.

3. To determine whether any, and if any, what part of the net profits of the Corporation or of its net assets in excess of its capital shall be declared in dividends and paid to the stockholders, and to direct and determine the use and disposition thereof.

4. To set apart a reserve or reserves, and to abolish any such reserve or reserves, or to make such other provisions, if any, as the Board of Directors may deem necessary or advisable for working capital, for additions, improvements and betterments to plant and equipment, for expansion of the business of the Corporation (including the acquisition of real and personal property for that purpose) and for any other purpose of the Corporation.

5. To establish bonus, profit-sharing, pension, thrift, and other types of incentive, compensation or retirement plans for the officers and employees (including officers and employees who are also directors) of the Corporation and to fix the amounts of profits to be distributed or shared or contributed and the amounts of the Corporation's funds otherwise to be devoted thereto and to determine the persons to participate in any such plans and the amounts of their respective participation.

6. To issue, or grant options for the purchase of, shares of stock of the Corporation to officers and employees (including officers and employees who are also directors) of the Corporation and its subsidiaries for such consideration and on such terms and conditions as the Board of Directors may from time to time determine.

7. To enter into contracts for the management of the business of the Corporation.

8. By resolution or resolutions passed by a majority of the whole Board, to designate one or more committees, each committee to consist of two or more of the directors of the Corporation which to the extent provided in such resolution or resolutions or in the By-Laws, shall have and may exercise the powers of the Board of Directors (other than the power to remove or elect officers) in the management of the business and affairs of the Corporation and may have power to authorize the seal of the Corporation to be affixed to all papers which may require it, such committee or committees to have such name or names as may be stated in the By-Laws or as may be determined from time to time by resolution adopted by the Board of Directors.

9. To exercise all the powers of the Corporation except such as are conferred by law, or by this Certificate of Incorporation or by the By-Laws of the Corporation upon the stockholders.

C. Any one or all of the directors may be removed with cause, at any time, by either (a) the vote of the holders of a majority of the stock of the Corporation issued and the understanding that the holders are entitled to vote either present in person or by proxy at any meeting of the stockholders called for the purpose; or (b) an instrument or instruments in writing addressed to the Board of Directors directing such removal and signed by the holders of a majority of the stock of the Corporation issued and outstanding and entitled to vote.

D. No contract or other transaction between the Corporation and any other corporation, whether or not such other corporation is related to the Corporation through the direct or indirect ownership by such other corporation or by the Corporation of a majority of the shares of the capital of such other corporation, and no other act of the Corporation shall, in the absence of fraud, in any way be affected or invalidated by the fact that any of the directors of the Corporation have a pecuniary or otherwise interest in, or are directors or officers of, such other corporation or by the fact that such other corporation is so related to the Corporation. Any director of the Corporation individually, or any firm or association of which any director may be a member, may be a party to, or may have pecuniary or otherwise interest in, any contract or transaction of the Corporation, provided that the fact that he individually, or such firm or association is so interested shall be disclosed or shall have been known to the Board of Directors or a majority of such members thereof as shall be present at any meeting of the Board of Directors at which action upon any such contract or transaction shall be taken. Any director of the Corporation who is also a director or officer of such other corporation or who is so interested may be counted in determining the existence of a quorum at any meeting of the Board of Directors which shall authorize any such contract or transaction, with like force and effect as if he were not such director or officer of such other corporation or not so interested.

E. The Corporation shall, as and to the extent determined by the Board of Directors, maintain director's and officers liability insurance, and kidnap and ransom Insurance for its directors, officers, and executives engaged in business efforts requiring travel abroad, as well as "key man" and life insurance for its key senior staff, directors, and officers.

**EIGHTH:** The Corporation reserves the right to amend, alter or repeal any of the provisions of this Certificate of Incorporation and to add other provisions authorized by the laws of the Commonwealth of Puerto Rico at the time in force in the manner and at the time prescribed by said laws, and by the By-Laws of the Corporation, all rights, powers, and privileges at any time conferred upon the Board of Directors and the stockholders are granted subject to the provisions of this Article.

**NINTH:** A member of the Board of Directors, or a member of any committee designated by the Board of Directors shall, in the performance of his or her duties, be fully protected for relying in good faith upon the records of the Corporation and upon the information, opinions, reports or statements presented to the Corporation by any of the officers or employees of the Corporation, or committees of the Board of Directors, or by any other person as to matters which the member reasonably believes are within the scope of the professional or expert competence of such person who has been selected with reasonable care by or on behalf of the Corporation.

A. The directors and officers of the Corporation shall be obliged to dedicate to the affairs of the Corporation and to the exercise of their duties the attention and care which, in a similar position and under analogous circumstances a responsible and competent director or officer would execute in applying his or her business judgment in good faith. Only gross negligence in the exercise of the duties and obligations mentioned above will result in personal liability. To the fullest extent permitted by law, a director or officer of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages if it is demonstrated that he or she acted in good faith.



B. If the directors or officers of the Corporation knowingly cause the publication of or furnish any false written statement or report with respect to any important matter regarding the condition or business of the Corporation, such directors or officers who shall have caused the publication or shall have furnished or approved such report or statement shall each be jointly liable for any loss or damage resulting therefrom.

C. Any indemnity provided to the directors and officers of the Corporation shall be granted provided that any such director or officer acted in good faith and in a manner that he or she reasonably deemed consistent with the best interests of the Corporation and not opposed thereto and with respect to any criminal action or proceeding, he or she did not have reasonable cause to believe that his or her conduct was unlawful. Any such indemnity shall be provided in accordance with the provisions of Article 4.08 of the General Corporation Law.

D. Any repeal or modification of the foregoing provisions of this Article Ninth by the stockholders of the Corporation shall not adversely affect any right or protection of a director or officer of the Corporation existing at the time of, or increase the liability of any director or officer of the Corporation with respect to any acts or omissions of such director or officer occurring prior to, such repeal or modification.

**TENTH:** The name and address of the Incorporator is as follows: RSM ROC & COMPANY.

The physical address is: Calle San Roberto #1000  
Reperto Loyola,  
San Juan, P.R. 00922

The mailing address is: PO BOX 10528, San Juan PR 00922-0528

The faculties of the incorporator ended upon the filing of the Certificate of Incorporation on November 3, 2005, and the following person (whose address is provided herein) acted as a director until the first annual meeting of the stockholders:

<u>Directors</u>	<u>Address</u>
Hector Hoyos	Calle San Roberto #1000 Reperto Loyola, San Juan, P.R. 00922

The mailing address is: PO BOX 10528, San Juan, PR 00922-052

**ELEVENTH:** To the fullest extent permitted by applicable law and subject to the provisions of **ARTICLE NINTH** herein above, the Corporation is authorized to provide indemnification of (and advancement of expenses to) directors, officers and agents of the Corporation (and any other persons to which General Corporation Law permits the Corporation

to provide indemnification) through Bylaw provisions, resolutions, agreements with such agents or other persons, vote of stockholders or disinterested directors or otherwise, in excess of the indemnification and advancement otherwise permitted by the General Corporation Law. Any amendment, repeal or modification of the foregoing provisions of this Article Tenth shall not adversely affect any right or protection of any director, officer or other agent of the Corporation existing at the time of such amendment, repeal or modification.

\* \* \*

3. That the foregoing amendment and restatement was approved by the holders of the requisite number of shares of this corporation in accordance with Sections 7.12 and 8.02 of the General Corporation Law.

4. That this Amended and Restated Certificate of Incorporation, which restates and integrates and further amends the provisions of this Corporation's Certificate of Incorporation, has been duly adopted in accordance with Section 8.05 of the General Corporation Law.

**[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK –  
SEPARATE SIGNATORY PAGE FOLLOWS]**

**IN WITNESS WHEREOF**, this Fourth Amended and Restated Certificate of Incorporation has been executed by a duly authorized officer of this corporation on this 9<sup>th</sup> day of December 2011.

  
President