

**TRADEMARK ASSIGNMENT**

Electronic Version v1.1  
 Stylesheet Version v1.1

<b>SUBMISSION TYPE:</b>		NEW ASSIGNMENT	
<b>NATURE OF CONVEYANCE:</b>		CHANGE OF NAME	
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
Giveo, Inc.		07/16/2012	CORPORATION: COLORADO
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	SpotRight, Inc.		
<b>Street Address:</b>	1048 Pearl Street		
<b>City:</b>	Boulder		
<b>State/Country:</b>	COLORADO		
<b>Postal Code:</b>	80302		
<b>Entity Type:</b>	CORPORATION: COLORADO		
<b>PROPERTY NUMBERS Total: 1</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Serial Number:</b>	85527327	SPOTRIGHT	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	7205364910		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent via US Mail.</i>			
<b>Phone:</b>	720.536.4900		
<b>Email:</b>	rene@nodiaplaw.com		
<b>Correspondent Name:</b>	Neugeboren O'Dowd PC		
<b>Address Line 1:</b>	1227 Spruce Street		
<b>Address Line 2:</b>	Suite 200		
<b>Address Line 4:</b>	Boulder, COLORADO 80302		
<b>ATTORNEY DOCKET NUMBER:</b>	2050.301.US SPOTRIGHT		
<b>NAME OF SUBMITTER:</b>	Craig A. Neugeboren		
<b>Signature:</b>	/Craig A. Neugeboren/		

OP \$40.00 85527327

Date:

04/11/2013

**Total Attachments: 22**

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Colorado Secretary of State  
 Date and Time: 07/16/2012 05:03 PM  
 ID Number: 20091051786  
 Document number: 20121384550  
 Amount Paid: \$25.00

Document must be filed electronically.  
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**Amended and Restated Articles of Incorporation**

filed pursuant to §7-90-301, et seq. and §7-110-107 and §7-90-304.5 of the Colorado Revised Statutes (C.R.S.)

ID number: 20091051786

1. Entity name: Giveo, Inc.  
*(If changing the name of the corporation, indicate name BEFORE the name change)*

2. New Entity name:  
 (if applicable) SpotRight, Inc.

3. Use of Restricted Words *(if any of these terms are contained in an entity name, true name of an entity, trade name or trademark stated in this document, mark the applicable box):*

- "bank" or "trust" or any derivative thereof
- "credit union"       "savings and loan"
- "insurance", "casualty", "mutual", or "surety"

4. If the corporation's period of duration as amended is less than perpetual, state the date on which the period of duration expires:  
 \_\_\_\_\_  
*(mm/dd/yyyy)*

**OR**

If the corporation's period of duration as amended is perpetual, mark this box:

5. The amended and restated constituent filed document is attached.

6. If the amendment provides for an exchange, reclassification or cancellation of issued shares, the attachment states the provisions for implementing the amendment.

7. (Optional) Delayed effective date: \_\_\_\_\_  
*(mm/dd/yyyy)*

Notice:

Causing this document to be delivered to the secretary of state for filing shall constitute the affirmation or acknowledgment of each individual causing such delivery, under penalties of perjury, that the document is the individual's act and deed, or that the individual in good faith believes the document is the act and deed of the person on whose behalf the individual is causing the document to be delivered for filing, taken in conformity with the requirements of part 3 of article 90 of title 7, C.R.S., the constituent documents, and the organic statutes, and that the individual in good faith believes the facts stated in the document are true and the document complies with the requirements of that Part, the constituent documents, and the organic statutes.

This perjury notice applies to each individual who causes this document to be delivered to the secretary of state, whether or not such individual is named in the document as one who has caused it to be delivered.

8. Name(s) and address(es) of the individual(s) causing the document to be delivered for filing:

Messman Ed  
(Last) (First) (Middle) (Suffix)  
1350 Pine Street, #5  
(Street name and number or Post Office Box information)  
Boulder CO 80302  
(City) (State) (Postal/Zip Code)  
United States  
(Province – if applicable) (Country – if not US)

*(The document need not state the true name and address of more than one individual. However, if you wish to state the name and address of any additional individuals causing the document to be delivered for filing, mark this box  and include an attachment stating the name and address of such individuals.)*

**Disclaimer:**

This form, and any related instructions, are not intended to provide legal, business or tax advice, and are offered as a public service without representation or warranty. While this form is believed to satisfy minimum legal requirements as of its revision date, compliance with applicable law, as the same may be amended from time to time, remains the responsibility of the user of this form. Questions should be addressed to the user's attorney.

**SECOND AMENDED AND RESTATED  
ARTICLES OF INCORPORATION  
OF  
GIVEO, INC.**

Ed Messman under the provisions and subject to the requirements of the laws of the State of Colorado hereby certifies that:

**ONE:** The original name of this company is Giveo, Inc. The date of the original filing of the original Articles of Incorporation of this company with the Secretary of State of the State of Colorado was January 26, 2009. This company filed an Amended and Restated Articles of Incorporation on November 10, 2010.

**TWO:** He is the duly elected and acting President and Chief Executive Officer of Giveo, Inc., a Colorado corporation.

**THREE:** The Amended and Restated Articles of Incorporation of this corporation is hereby amended and restated to read as follows:

**I.**

The name of this company is SpotRight, Inc. (the "*Company*").

**II.**

The address of the registered office of the Company in the State of Colorado is 1350 Pine Street, Suite 5, City of Boulder, County of Boulder, Colorado 80302. The name of its registered agent at that address is SpotRight, Inc.

**III.**

The purpose of the Company is to engage in any lawful act or activity for which a corporation may be organized under the Colorado Business Corporation Act ("*Act*").

**IV.**

**A.** The Company is authorized to issue two classes of stock to be designated, respectively, "Common Stock" and "Preferred Stock." The total number of shares which the Company is authorized to issue is 66,200,000 shares, 42,000,000 of which shall be Common Stock (the "*Common Stock*") and 24,200,000 shares of which shall be Preferred Stock (the "*Preferred Stock*"). The Preferred Stock shall have a par value of one-tenth of one cent (\$0.001) per share and the Common Stock shall have a par value of one-tenth of one cent (\$0.001) per share.

**B.** At all meetings of shareholders, a majority of the shares entitled to vote at such meeting, represented in person or by proxy, shall constitute a quorum; and at any meeting at

which a quorum is present the affirmative vote of a majority of the votes cast on the matter represented at such meeting and entitled to vote on the subject matter shall be the act of the shareholders, unless the vote of a greater proportion or number is required by applicable law. Any action required or permitted by Articles 101 to 117 of the Act to be taken at a meeting of the shareholders of the Company may be taken without a meeting if the shareholders holding shares having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all of the shares entitled to vote thereon were present and voted consent to such action in writing.

**C.** 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 plus a number of shares of Common Stock necessary to allow for the conversion of the then outstanding shares of Preferred Stock) by the affirmative vote of the holders of at least a majority of the stock of the Company (voting together on an as-if-converted basis).

**D.** 14,000,000 of the authorized shares of Preferred Stock are hereby designated “Series AA Preferred Stock” (the “*Series AA Preferred*”), 7,200,000 of the authorized shares of Preferred Stock are hereby designated “Series A1 Preferred Stock” (the “*Series A1 Preferred*”) and 3,000,000 of the authorized shares of Preferred Stock are hereby designated “Series A2 Preferred Stock” (the “*Series A2 Preferred*” and, together with the Series A1 Preferred, the “*Series A Preferred*”).

**E.** Effective immediately upon the filing of this Second Amended and Restated Articles of Incorporation with the Secretary of State of the State of Colorado, each outstanding share of Common Stock as of the date hereof shall, automatically and without any action on the part of the respective holders thereof, be converted into one hundred (100) shares of Common Stock, each outstanding share of Series A1 Preferred Stock as of the date hereof shall, automatically and without any action on the part of the respective holders thereof, be converted into one hundred (100) shares of Series A1 Preferred Stock, and each outstanding share of Series A2 Preferred Stock as of the date hereof shall, automatically and without any action on the part of the respective holders thereof, be converted into one hundred (100) shares of Series A2 Preferred Stock.

**F.** The rights, preferences, privileges, restrictions and other matters relating to the Series A Preferred are as follows:

**1. DIVIDEND RIGHTS.**

(a) Holders of the Series A Preferred, in preference to the holders of Common Stock and any other class or series of Preferred Stock, shall be entitled to receive, when and as declared by the Board of Directors of the Company (the “*Board*”), but only out of funds that are legally available therefor, cash dividends at the rate of six percent (6%) of the Original Issue Price (as defined below) of the Series A1 Preferred or Series A2 Preferred, as applicable, per annum on each outstanding share of Series A Preferred (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof). Such dividends shall be payable only when, as and if declared by the Board and shall be non-cumulative.

(b) The “*Original Issue Price*” of the Series AA Preferred shall be \$.2715 (as adjusted for stock dividends, stock split, combinations and the like after the filing date hereof). The “*Original Issue Price*” of the Series A1 Preferred shall be \$.2225 (as adjusted for stock dividends, stock split, combinations and the like after the filing date hereof). The “*Original Issue Price*” of the Series A2 Preferred shall be \$.2715 (as adjusted for stock dividends, stock split, combinations and the like after the filing date hereof).

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

(d) In the event dividends are paid on any share of Common Stock, the Company shall pay an additional dividend on all outstanding shares of Series A Preferred and all outstanding shares of Series AA Preferred in a per share amount equal (on an as-if-converted to Common Stock basis) to the amount paid or set aside, and in the same form of consideration, for each share of Common Stock.

(e) The provisions of Sections 1(a), 1(c) and 1(d) shall not apply to:

(i) a dividend payable in Common Stock;

(ii) acquisitions of Common Stock by the Company pursuant to agreements which permit the Company to repurchase such shares at cost (or the lesser of cost or fair market value) upon termination of services to the Company; or

(iii) acquisitions of Common Stock in exercise of the Company’s right of first refusal to repurchase such shares.

(f) The right of the holders of Series A Preferred to receive payments of dividends under Section 1(a) may be waived by the holders of a majority of the outstanding Series A Preferred voting together as a single class on an as-converted basis.

## 2. VOTING RIGHTS.

(a) **General Rights.** Each holder of shares of Series A Preferred and Series AA Preferred 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 or Series AA Preferred could be converted (pursuant to Section 4 hereof) immediately after the close of business on the record date fixed for such meeting or the effective date of such written consent and shall have voting rights and powers equal to the voting rights and powers of the Common Stock and shall be entitled to notice of any shareholders’ meeting in accordance with the Bylaws of the Company. Except as otherwise provided herein or as required by law, the Series A Preferred and the Series AA Preferred shall vote together with the Common Stock at any annual or special meeting of the shareholders and not as a separate class, and may act by written consent in the same manner as the Common Stock.

**(b) Separate Vote of Series A Preferred.** For so long as any shares of Series A Preferred remain outstanding, in addition to any other vote or consent required herein or by law, the vote or written consent of the holders of at least a majority of the outstanding Series A Preferred voting together as a single class on an as-converted basis shall be necessary for effecting or validating the following actions (whether by amendment, merger, consolidation, recapitalization or otherwise):

**(i)** any redemption or repurchase of Common Stock or Preferred Stock, other than acquisitions of Common Stock by the Company pursuant to agreements that permit the Company to repurchase such shares at the lesser of cost or fair market value upon termination of services to the Company, or in exercise of the Company's right of first refusal upon a proposed transfer;

**(ii)** any payment or declaration of dividends or other distributions with respect to Common Stock or Preferred Stock;

**(iii)** any increase or decrease in the authorized number of members of the Company's Board of Directors;

**(iv)** any agreement or action that alters or changes the powers, preferences, rights, or privileges of the Series A Preferred;

**(v)** any increase or decrease in the number of authorized shares of Preferred Stock or Common Stock;

**(vi)** any authorization or any designation, creation or issuance, whether by reclassification or otherwise, of any new class or series of stock or any other securities convertible into equity securities of the Company ranking on a parity with or senior to the Series A Preferred in rights, preferences or privileges, including without limitation, rights of redemption, liquidation preferences, voting rights or dividend rights, or any increase in the authorized or designated number of any such new class or series;

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

**(viii)** any voluntary liquidation, dissolution or winding up of the Company or any Liquidation Event (as defined below) (including any agreement by the Company or its shareholders regarding an Asset Transfer or Acquisition (each as defined below) or any other merger (whether or not the Company is the surviving corporation) or consolidation of the Company or corporate reorganization;

**(ix)** any reclassification, reorganization or recapitalization of the outstanding capital stock of the Company; or



(x) any acquisition of another entity or the assets of such entity, unless such acquisition is approved by the Board, including at least one of the Series A Directors.

(c) **Separate Vote of Series AA Preferred.** For so long as any shares of Series AA Preferred remain outstanding, in addition to any other vote or consent required herein or by law, the vote or written consent of the holders of at least a majority of the outstanding Series AA Preferred voting together as a single class on an as-converted basis shall be necessary for effecting or validating the following actions (whether by amendment, merger, consolidation, recapitalization or otherwise) any amendment, alteration, repeal or waiver of any provision of the Articles of Incorporation (including any filing of a Certificate of Designation) that adversely affects the rights, preferences or privileges of the Series AA Preferred.

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

(i) For so long as at least ten thousand (10,000) shares of Series A Preferred remain outstanding (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof), the holders of Series A Preferred, voting together as a separate class on an as-converted basis, shall be entitled to elect two (2) members (the “*Series A Directors*”) of the Board of Directors of the Company (the “*Board*”) at each meeting or pursuant to each consent of the Company’s shareholders for the election of directors, and to remove from office such director and to fill any vacancy caused by the resignation, death or removal of such director;

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

(iii) The holders of Common Stock and Preferred Stock, voting together as a single class on an as-converted basis, shall be entitled to elect any remaining members of the Board at each meeting or pursuant to each consent of the Company’s shareholders for the election of directors, and to remove from office such director and to fill any vacancy caused by the resignation, death or removal of such director.

**3. LIQUIDATION, ASSET TRANSFER OR ACQUISITION RIGHTS.**

(a) Upon any liquidation, dissolution, or winding up of the Company, whether voluntary or involuntary, or any Acquisition or Asset Transfer (as defined below) (each, a “*Liquidation Event*”), before any distribution or payment shall be made to the holders of any Common Stock or Series AA Preferred, the holders of Series A Preferred shall be entitled to be paid out of the assets of the Company legally available for distribution, or the consideration received in such Liquidation Event, for each share of Series A Preferred held by them (i) in the case of the Series A1 Preferred, an amount per share of Series A1 Preferred equal to the Original Issue Price of the Series A1 Preferred plus any declared and unpaid dividends on the Series A1 Preferred (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like

with respect to such shares after the filing date hereof) and (ii) in the case of the Series A2 Preferred, an amount per share of Series A2 Preferred equal to the Original Issue Price of the Series A2 Preferred plus any declared and unpaid dividends on the Series A2 Preferred (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof). If, upon any such Liquidation Event, the assets of the Company (or the consideration received in such transaction) shall be insufficient to make payment in full to all holders of Series A Preferred of the liquidation preference set forth in this Section 3(a), then such assets (or consideration) shall be distributed among the holders of Series A Preferred at the time outstanding, ratably in proportion to the full amounts to which they would otherwise be respectively entitled under the terms of this Section 3(a).

(b) After the payment of the full liquidation preference of the Series A Preferred as set forth in Section 3(a) above, before any distribution or payment shall be made to the holders of any Common Stock, the holders of Series AA Preferred shall be entitled to be paid out of the assets of the Company legally available for distribution, or the consideration received in such Liquidation Event, for each share of Series AA Preferred held by them, an amount per share of Series AA Preferred equal to the greater of (i) the Original Issue Price of the Series AA Preferred (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof), or (ii) such amount per share as would have been payable had all the shares of Series AA Preferred been converted into Common Stock pursuant to Section 4 immediately prior to such Liquidation Event. If, upon any such Liquidation Event, the assets of the Company (or the consideration received in such transaction) shall be insufficient to make payment in full to all holders of Series AA Preferred of the liquidation preference set forth in this Section 3(b), then such assets (or consideration) shall be distributed among the holders of Series AA Preferred at the time outstanding, ratably in proportion to the full amounts to which they would otherwise be respectively entitled under the terms of this Section 3(b).

(c) After the payment of the full liquidation preference of the Series A Preferred and Series AA Preferred as set forth in Sections 3(a) and 3(b) above, the remaining assets of the Company legally available for distribution in such Liquidation Event (or the consideration received in such transaction), if any, shall be distributed ratably to the holders of the Common Stock and Series A Preferred on an as-if-converted to Common Stock basis.

(d) For the purposes of this Section 3: (i) “**Acquisition**” shall mean (A) any consolidation or merger of the Company with or into any other corporation or other entity or person, or any other corporate reorganization, in which the shareholders of the Company immediately prior to such consolidation, merger or reorganization, own less than fifty percent (50%) of the voting power of the surviving or successor entity (or in the event stock or ownership interests of an affiliated entity are issued in such transaction, less than fifty percent (50%) of the voting power of such affiliated entity) immediately after such consolidation, merger or reorganization; or (B) any transaction or series of related transactions to which the Company is a party in which in excess of fifty percent (50%) of the Company’s outstanding voting power is transferred; *provided* that an Acquisition shall not include (x) any consolidation or merger effected exclusively to change the domicile of the Company, or (y) any transaction or series of transactions principally for bona fide equity financing purposes in which cash is received by the

Company or any successor or indebtedness of the Company is cancelled or converted or a combination thereof; and (ii) “*Asset Transfer*” shall mean a sale, lease, conveyance, exclusive license or other disposition of all or substantially all of the assets of the Company.

(e) In any Acquisition or Asset Transfer, if the consideration to be received by the Company is other than cash, its value will be deemed its fair market value as determined in good faith by the Board. Any securities shall be valued as follows:

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

(A) If traded on a securities exchange or through the Nasdaq Market, the value shall be deemed to be the average of the closing prices of the securities on such exchange or system over the twenty (20) trading-day period ending three (3) trading days prior to the closing of the Acquisition or Asset Transfer;

(B) If actively traded over-the-counter, the value shall be deemed to be the average of the closing bid or sale prices (whichever is applicable) over the twenty (20) trading-day period ending three (3) trading days prior to the closing of the Acquisition or Asset Transfer; and

(C) If there is no active public market, the value shall be the fair market value thereof, as determined by the Company and the holders of a majority of the voting power of all then outstanding shares of Series A Preferred (voting together as a separate class on an as-converted basis).

(ii) The method of valuation of securities subject to investment letter or other restrictions on free marketability (other than restrictions arising solely by virtue of a shareholder’s status as an affiliate or former affiliate) shall be to make an appropriate discount from the market value determined as above in (i) (A), (B) or (C) to reflect the approximate fair market value thereof, as mutually determined by the Company and the holders of a majority of the voting power of all then outstanding shares of Series A Preferred (voting together as a single class on an as-converted basis).

(iii) The foregoing methods for valuing non-cash consideration to be distributed in connection with an Acquisition or Asset Transfer shall, upon approval by the shareholders of the definitive agreements governing an Acquisition or Asset Transfer, be superseded by any determination of such value set forth in the definitive agreements governing such Acquisition or Asset Transfer.

(f) In the event the requirements of Section 3 are not complied with, the Company shall forthwith either:

(i) cause the closing of such Acquisition or Asset Transfer to be postponed until such time as the requirements of Section 3 have been complied with; or

(ii) cancel such transaction, in which event the rights, preferences and privileges of the holders of the Preferred Stock shall revert to and be the same as such rights, preferences and privileges existing immediately prior to the date of the first notice referred to in subsection 4(j) hereof.

#### 4. CONVERSION RIGHTS.

The holders of the Series A Preferred and Series AA Preferred shall have the following rights with respect to the conversion of the Series A Preferred and Series AA Preferred into shares of Common Stock (the “*Conversion Rights*”):

(a) **Optional Conversion.** Subject to and in compliance with the provisions of this Section 4, any shares of Series A Preferred or Series AA Preferred may, at the option of the holder, be converted at any time into fully-paid and nonassessable shares of Common Stock. The number of shares of Common Stock to which a holder of Series A Preferred or Series AA Preferred shall be entitled upon conversion shall be the product obtained by multiplying the applicable “Series Preferred Conversion Rate” then in effect (determined as provided in Section 4(b)) by the number of shares of Series A Preferred or Series AA Preferred being converted.

(b) **Series Preferred Conversion Rate.** The conversion rate in effect at any time for conversion of the Series A1 Preferred (the “*Series A1 Preferred Conversion Rate*”) shall be the quotient obtained by dividing the Original Issue Price of the Series A1 Preferred by the “Series A1 Preferred Conversion Price,” calculated as provided in Section 4(c). The conversion rate in effect at any time for conversion of the Series A2 Preferred (the “*Series A2 Preferred Conversion Rate*”) shall be the quotient obtained by dividing the Original Issue Price of the Series A2 Preferred by the “Series A2 Preferred Conversion Price,” calculated as provided in Section 4(c). The conversion rate in effect at any time for conversion of the Series AA Preferred (the “*Series AA Preferred Conversion Rate*”) shall be the quotient obtained by dividing the Original Issue Price of the Series AA Preferred by the “Series AA Preferred Conversion Price,” calculated as provided in Section 4(c).

(c) **Series Preferred Conversion Price.** The conversion price for the Series A1 Preferred shall initially be the Original Issue Price of the Series A1 Preferred (the “*Series A1 Preferred Conversion Price*”). The conversion price for the Series A2 Preferred shall initially be the Original Issue Price of the Series A2 Preferred (the “*Series A2 Preferred Conversion Price*”) and collectively with the Series A1 Preferred Conversion Price, the “*Series A Preferred Conversion Prices*”). The conversion price for the Series AA Preferred shall initially be the Original Issue Price of the Series AA Preferred (the “*Series AA Preferred Conversion Price*”). Each of the Series A1 Preferred Conversion Price, the Series A2 Preferred Conversion Price and the Series AA Preferred Conversion Price shall collectively be referred to herein as the “*Series Preferred Conversion Prices*.” Each of the initial Series Preferred Conversion Prices shall be adjusted from time to time in accordance with this Section 4. All references to the Series Preferred Conversion Price(s) herein shall mean the Series Preferred Conversion Price(s) as so adjusted.

**(d) Mechanics of Conversion.** Each holder of Series A Preferred or Series AA Preferred who desires to convert the same into shares of Common Stock pursuant to this Section 4 shall surrender the certificate or certificates therefor, duly endorsed, or an affidavit of loss, at the office of the Company or any transfer agent for the Series A Preferred and Series AA Preferred, and shall give written notice to the Company at such office that such holder elects to convert the same. Such notice shall state the number of shares of Series A Preferred or Series AA Preferred being converted. Thereupon, the Company shall promptly issue and deliver at such office to such holder a certificate or certificates for the number of shares of Common Stock to which such holder is entitled and shall promptly pay (i) in cash or, to the extent sufficient funds are not then legally available therefor, in Common Stock (at the Common Stock's fair market value determined by the Board as of the date of such conversion), any declared and unpaid dividends on the shares of Series A Preferred being converted and (ii) in cash (at the Common Stock's fair market value determined by the Board as of the date of conversion) the value of any fractional share of Common Stock otherwise issuable to any holder of Series A Preferred or Series AA Preferred. Such conversion shall be deemed to have been made at the close of business on the date of such surrender of the certificates representing the shares of Series A Preferred or Series AA Preferred to be converted, and the person entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder of such shares of Common Stock on such date. If the conversion is in connection with an underwritten public offering of securities registered pursuant to the Securities Act of 1933, as amended (the "*Securities Act*"), the conversion may, at the option of any holder tendering such Series A Preferred or Series AA Preferred 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 or Series AA Preferred shall not be deemed to have converted such Series A Preferred or Series AA Preferred until immediately prior to the closing of such sale of securities.

**(e) Adjustment for Stock Splits and Combinations.** If at any time or from time to time after the date that the first share of Series AA Preferred is issued (the "*Series AA Original Issue Date*") the Company effects a split or subdivision of the outstanding Common Stock without a corresponding split or subdivision of the Series A Preferred and Series AA Preferred, the Series Preferred Conversion Prices in effect immediately before that split or subdivision shall be proportionately decreased. Conversely, if at any time or from time to time after the Series AA Original Issue Date the Company combines the outstanding shares of Common Stock into a smaller number of shares without a corresponding combination of the Series A Preferred and Series AA Preferred, the Series Preferred Conversion Prices in effect immediately before the combination shall be proportionately increased. Any adjustment under this Section 4(e) shall become effective at the close of business on the date the subdivision or combination becomes effective.

**(f) Adjustment for Common Stock Dividends and Distributions.** If at any time or from time to time after the Series AA Original Issue Date the Company pays to holders of Common Stock a dividend or other distribution payable in additional shares of Common Stock without a corresponding dividend or other distribution to holders of Series A Preferred or the holders of Series AA Preferred on an as-if converted to Common Stock basis,

the applicable Series Preferred Conversion Prices that are then in effect shall be decreased as of the time of such issuance, as provided below:

(i) the Series A1 Conversion Price, Series A2 Conversion Price or Series AA Conversion Price shall be adjusted by multiplying the applicable Series Preferred Conversion Prices then in effect by a fraction:

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

(B) the denominator of which is the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance plus the number of shares of Common Stock issued or issuable (including shares of Common Stock issued or issuable upon exercise of any securities convertible into, or exchangeable for, shares of, Common Stock) in payment of such dividend or distribution.

(ii) if the Company fixes a record date to determine which holders of Common Stock are entitled to receive such dividend or other distribution, the Series A1 Preferred Conversion Price, Series A2 Conversion Price or Series AA Conversion Price shall be adjusted according to Section 4(f)(i) above as of the close of business on such record date and the number of shares of Common Stock shall be calculated immediately prior to the close of business on such record date as if such dividend or distribution had been paid or made in full on such record date; and

(iii) if such record date is fixed and such dividend is not fully paid or if such distribution is not fully made on the date fixed therefor, the Series A1 Preferred Conversion Price, Series A2 Conversion Price or Series AA Conversion Price shall be recomputed accordingly as of the close of business on such record date and thereafter the Series A1 Preferred Conversion Price, Series A2 Conversion Price or Series AA Conversion Price shall be adjusted pursuant to this Section 4(f) to reflect the actual payment of such dividend or distribution.

**(g) Adjustment for Reclassification, Exchange, Substitution, Reorganization, Merger or Consolidation.** If at any time or from time to time after the Series AA Original Issue Date, the Common Stock issuable upon the conversion of the Series A Preferred or Series AA Preferred is changed into the same or a different number of shares of any class or classes of stock, whether by recapitalization, reclassification, merger, consolidation or otherwise (other than an Acquisition or Asset Transfer (as defined in Section 3) or a subdivision or combination of shares or stock dividend or a reorganization, merger, consolidation or sale of assets provided for elsewhere in this Section 4), in any such event each holder of Series A Preferred or Series AA Preferred shall then have the right to convert such stock into the kind and amount of stock and other securities and property receivable upon such recapitalization, reclassification, merger, consolidation or other change by holders of the maximum number of shares of Common Stock into which such shares of Series A Preferred or Series AA Preferred could have been converted immediately prior to such recapitalization, reclassification, merger, consolidation or change, all subject to further adjustment as provided herein or with respect to such other securities or property by the terms thereof. In any such case, appropriate adjustment

shall be made in the application of the provisions of this Section 4 with respect to the rights of the holders of Series A Preferred and Series AA Preferred after the capital reorganization to the end that the provisions of this Section 4 (including adjustment of the Series Preferred Conversion Prices then in effect and the number of shares issuable upon conversion of the Series A Preferred and Series AA Preferred) shall be applicable after that event and be as nearly equivalent as practicable. As a condition to any such recapitalization, reclassification, merger, consolidation or other transaction contemplated above, the Company shall reserve a sufficient number of the shares or securities, or a sufficient amount of the property, received or to be received to allow for the conversion of all outstanding shares of Series A Preferred and Series AA Preferred in accordance with this Section 4(g).

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

**(i)** If at any time or from time to time after the Series AA Original Issue Date, the Company issues or sells, or is deemed by the express provisions of this Section 4(h) to have issued or sold, Additional Shares of Common Stock (as defined below), other than as provided in Section 4(f) or 4(g) above, for an Effective Price (as defined below) less than the then effective applicable Series A Preferred Conversion Prices (a “*Qualifying Dilutive Issuance*”), then and in each such case, the then existing applicable Series A Preferred Conversion Prices shall be reduced, as of the opening of business on the date of such issue or sale, to a price determined by multiplying the applicable Series A Preferred Conversion Prices in effect immediately prior to such issuance or sale by a fraction:

**(A)** the numerator of which shall be (x) the number of shares of Common Stock deemed outstanding (as determined below) immediately prior to such issue or sale, plus (y) the number of shares of Common Stock which the Aggregate Consideration (as defined below) received or deemed received by the Company for the total number of Additional Shares of Common Stock so issued would purchase at such then-existing applicable Series A Preferred Conversion Prices, and

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

For the purposes of the preceding sentence, the number of shares of Common Stock deemed to be outstanding as of a given date shall be the sum of (x) the number of shares of Common Stock outstanding on the day immediately preceding the given date, (y) the number of shares of Common Stock into which the then outstanding shares of Series A Preferred and Series AA Preferred could be converted if fully converted on the day immediately preceding the given date, and (z) the number of shares of Common Stock that could be obtained through the exercise or conversion of all other rights, options and convertible securities outstanding on the day immediately preceding the given date.

**(ii)** No adjustment shall be made to the Series A Preferred Conversion Prices in an amount less than one cent per share. Any adjustment required by this Section 4(h) shall be rounded to the nearest one cent per share. Any adjustment otherwise required by this Section 4(h) that is not required to be made due to the preceding two sentences

shall be included in any subsequent adjustment to the applicable Series A Preferred Conversion Prices.

(iii) For the purpose of making any adjustment required under this Section 4(h), the aggregate consideration received by the Company for any issue or sale of securities (the “**Aggregate Consideration**”) shall be defined as: (A) to the extent it consists of cash, be computed at the gross amount of cash received by the Company before deduction of any underwriting or similar commissions, compensation or concessions paid or allowed by the Company in connection with such issue or sale and without deduction of any expenses payable by the Company in connection with such issue or sale, (B) to the extent it consists of property other than cash, be computed at the fair value of that property as determined in good faith by the Board, and (C) if Additional Shares of Common Stock, Convertible Securities (as defined below) or rights or options to purchase either Additional Shares of Common Stock or Convertible Securities are issued or sold together with other stock or securities or other assets of the Company for a consideration which covers both, be computed as the portion of the consideration so received that may be reasonably determined in good faith by the Board to be allocable to such Additional Shares of Common Stock, Convertible Securities or rights or options.

(iv) For the purpose of the adjustment required under this Section 4(h), if the Company issues or sells (x) Preferred Stock or other stock, options, warrants, purchase rights or other securities convertible into or exchangeable for, Additional Shares of Common Stock (such convertible stock or securities being herein referred to as “**Convertible Securities**”) or (y) rights or options for the purchase of Additional Shares of Common Stock or Convertible Securities, and if the Effective Price of such Additional Shares of Common Stock issued or deemed to be issued as provided below is less than the applicable Series A Preferred Conversion Prices, in each case the Company shall be deemed to have issued at the time of the issuance of such rights or options or Convertible Securities the maximum number of Additional Shares of Common Stock issuable upon exercise or conversion thereof and to have received as consideration for the issuance of such shares an amount equal to the total amount of the consideration, if any, received by the Company for the issuance of such rights or options or Convertible Securities, plus:

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

(B) in the case of Convertible Securities, the minimum amounts of consideration, if any, payable to the Company upon the conversion thereof (other than by cancellation of liabilities or obligations evidenced by such Convertible Securities); *provided* that if the minimum amounts of such consideration cannot be ascertained, but are a function of antidilution or similar protective clauses, the Company shall be deemed to have received the minimum amounts of consideration without reference to such clauses.

(C) If the minimum amount of consideration payable to the Company upon the exercise or conversion of rights, options or Convertible Securities is reduced over time or on the occurrence or non-occurrence of specified events other than by



reason of antidilution adjustments, the Effective Price shall be recalculated using the figure to which such minimum amount of consideration is reduced; *provided further*, that if the minimum amount of consideration payable to the Company upon the exercise or conversion of such rights, options or Convertible Securities is subsequently increased, the Effective Price shall be again recalculated using the increased minimum amount of consideration payable to the Company upon the exercise or conversion of such rights, options or Convertible Securities. In either such case, the Series A Preferred Conversion Price shall be readjusted accordingly.

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

(v) Notwithstanding any other provisions of this Section 4(h), except to the limited extent provided for in Section 4(h)(iv), no adjustment of the Series A Preferred Conversion Price pursuant to this Section 4(h) shall have the effect of increasing such Series A Preferred Conversion Price above the Series A Preferred Conversion Price in effect immediately prior to such adjustment.

(vi) For the purpose of making any adjustment to the Conversion Price of the Series A Preferred required under this Section 4(h), “***Additional Shares of Common Stock***” shall mean all shares of Common Stock issued by the Company or deemed to be issued pursuant to this Section 4(h) (including shares of Common Stock subsequently reacquired or retired by the Company), other than:

(A) shares of Common Stock issued upon conversion of the Series A Preferred or Series AA Preferred or as a dividend or distribution on the Series A Preferred;

(B) shares of Common Stock and/or options, warrants or other Common Stock purchase rights and the Common Stock issued pursuant to such options,

warrants or other rights issued or issuable after the Original Issue Date to employees, officers or directors of, or consultants or advisors to, the Company or any of its subsidiaries pursuant to stock purchase or stock option plans or other arrangements outstanding as of the Series AA Original Issue Date or that are subsequently approved by the Board, including at least one of the Series A Directors;

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

(D) shares of Common Stock issued in connection with a firm commitment underwritten public offering;

(E) shares of Common Stock or Convertible Securities issued for consideration other than cash pursuant to a merger, consolidation, acquisition, strategic alliance, joint venture or similar business transaction approved by the Board, including at least one of the Series A Directors;

(F) shares of Common Stock or Convertible Securities issued pursuant to any equipment loan or commercial credit or leasing arrangement, real property leasing arrangement or debt financing from a bank or similar financial institution, provided such issuances are for other than primarily equity financing purposes and provided such loan, debt financing or arrangement is approved by the Board, including at least one of the Series A Directors;

(G) shares of Common Stock issued in connection with any stock split, stock dividend, reclassification or similar non-economic event by the Company; and

(H) shares of Common Stock or Convertible Securities issued pursuant to a transaction or series of related transactions with respect to which (i) the holders of at least a majority of the outstanding shares of the Series A Preferred voting together as a single class on an as-converted basis have waived any adjustment of the applicable Series A Preferred Conversion Prices pursuant to this Section 4(h) in connection with the issuance of such securities, and (ii) has been approved by the Board, including at least one of the Series A Directors.

References to Common Stock in the subsections of this clause (vi) above shall mean all shares of Common Stock issued by the Company or deemed to be issued pursuant to this Section 4(h). The “*Effective Price*” of Additional Shares of Common Stock shall mean the quotient determined by dividing the total number of Additional Shares of Common Stock issued or sold, or deemed to have been issued or sold by the Company under this Section 4(h), into the Aggregate Consideration received, or deemed to have been received by the Company for such issue under this Section 4(h), for such Additional Shares of Common Stock. In the event that the number of shares of Additional Shares of Common Stock or the Effective Price cannot be ascertained at the time of issuance, such Additional Shares of Common Stock shall be deemed issued immediately upon the occurrence of the first event that makes such number of shares or the Effective Price, as applicable, determinable.

(vii) In the event that the Company issues or sells, or is deemed to have issued or sold, Additional Shares of Common Stock in a Qualifying Dilutive Issuance (the “*First Dilutive Issuance*”), then in the event that the Company issues or sells, or is deemed to have issued or sold, Additional Shares of Common Stock in a Qualifying Dilutive Issuance other than the First Dilutive Issuance as a part of the same transaction or series of related transactions as the First Dilutive Issuance (a “*Subsequent Dilutive Issuance*”), then and in each such case upon a Subsequent Dilutive Issuance the applicable Series Preferred Conversion Prices shall be reduced to the applicable Series Preferred Conversion Prices that would have been in effect had the First Dilutive Issuance and each Subsequent Dilutive Issuance all occurred on the closing date of the First Dilutive Issuance.

(viii) For the avoidance of doubt, the Series AA Preferred do not have any price anti-dilution protection pursuant to these Articles of Incorporation.

(i) **Other Distributions.** Subject to the terms of Section 1, in the event the Company shall declare a distribution payable in securities of other persons, evidences of indebtedness issued by the Company or other persons, assets (excluding cash dividends) or options or rights not referred to in this Section 4, then, in each such case for the purpose of this Section 4, the holders of Series A Preferred and Series AA Preferred 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 of the Company into which their shares of Series A Preferred or Series AA Preferred are convertible as of the record date fixed for the determination of the holders of Common Stock of the Company entitled to receive such distribution.

(j) **Certificate of Adjustment.** In each case of an adjustment or readjustment of the applicable Series Preferred Conversion Prices for the number of shares of Common Stock or other securities or property issuable upon conversion of the Series A Preferred or Series AA Preferred, if the Series A Preferred or Series AA Preferred is then convertible pursuant to this Section 4, the Company, at its expense, shall compute such adjustments or readjustments in accordance with the provisions hereof and prepare a certificate showing such adjustments or readjustments, and shall mail such certificate, by first class mail, postage prepaid, to each registered holder of Series A Preferred or Series AA Preferred at the holder’s address as shown in the Company’s books. The certificate shall set forth such adjustments or readjustments, showing in detail the facts upon which such adjustments or readjustments are based, including a statement of (i) the Aggregate Consideration received or deemed to be received by the Company for any Additional Shares of Common Stock issued or sold or deemed to have been issued or sold, (ii) the applicable Series Preferred Conversion Prices at the time in effect, (iii) the number of Additional Shares of Common Stock issued or sold or deemed to have been issued or sold, and (iv) the type and amount, if any, of other securities or property which at the time would be received upon conversion of the applicable Series A Preferred or Series AA Preferred.

(k) **Notices of Record Date.** Upon (i) any taking by the Company of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend or other distribution, or (ii) any Acquisition (as defined in Section 3) or other capital reorganization of the Company, any reclassification or

recapitalization of the capital stock of the Company, any merger or consolidation of the Company with or into any other corporation, or any Asset Transfer (as defined in Section 3), or any Liquidation Event or other voluntary or involuntary dissolution, liquidation or winding up of the Company, the Company shall mail to each holder of Series A Preferred and Series AA Preferred at least ten (10) days prior to the record date specified therein (or such shorter period approved by (x) the Board, including the Series A Directors, and (y) the holders of at least a majority of the outstanding Series A Preferred) a notice specifying (A) the date on which any such record is to be taken for the purpose of such dividend or distribution and a description of such dividend or distribution, (B) the date on which any such Acquisition, reorganization, recapitalization, reclassification, transfer, consolidation, merger, Asset Transfer, Liquidation Event, dissolution, liquidation or winding up is expected to become effective, and (C) the date, if any, that is to be fixed as to when the holders of record of Common Stock (or other securities) shall be entitled to exchange their shares of Common Stock (or other securities) for securities or other property deliverable upon such Acquisition, reorganization, recapitalization, reclassification, transfer, consolidation, merger, Asset Transfer, Liquidation Event, dissolution, liquidation or winding up.

**(l) Automatic Conversion.**

**(i)** Each share of Series A Preferred and Series AA Preferred shall automatically be converted into shares of Common Stock, based on the then-effective applicable Series Preferred Conversion Prices, (a) immediately upon the closing of a firmly underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, covering the offer and sale of Common Stock for the account of the Company in which (i) the gross cash proceeds to the Company (before underwriting discounts, commissions and fees) are at least \$25,000,000 and (ii) the stock price in such offering is at least \$1.1125 per share (as adjusted for stock splits, reverse stock splits, stock dividends, recapitalizations and the like) (a “*Qualified Offering*”), or (b) at any time upon the affirmative election of the holders of at least a majority of the outstanding shares of the Series A Preferred voting together as a single class on an as-converted basis. Upon such automatic conversion, any declared and unpaid dividends shall be paid in accordance with the provisions of Section 4(d).

**(ii)** Upon the occurrence of any of the events specified in Section 4(l)(i) above, the outstanding shares of Series A Preferred and Series AA Preferred shall be converted automatically without any further action by the holders of such shares and whether or not the certificates representing such shares are surrendered to the Company or its transfer agent and the holder thereof shall have all rights with respect to the Common Stock to be received regardless of the timing of the delivery of new stock certificates; *provided, however*, that the Company shall not be obligated to issue certificates evidencing the shares of Common Stock issuable upon such conversion unless the certificates evidencing such shares of Series A Preferred or Series AA Preferred are either delivered to the Company or its transfer agent as provided below, or the holder notifies the Company or its transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the Company to indemnify the Company from any loss incurred by it in connection with such certificates. Upon the occurrence of such automatic conversion of the Series A Preferred and Series AA Preferred, the holders of Series A Preferred and Series AA Preferred shall surrender the certificates

representing such shares at the office of the Company or any transfer agent for the Series A Preferred and Series AA Preferred. Thereupon, there shall be issued and delivered to such holder promptly at such office and in its name as shown on such surrendered certificate or certificates, a certificate or certificates for the number of shares of Common Stock into which the shares of Series A Preferred and Series AA Preferred surrendered were convertible on the date on which such automatic conversion occurred, and any declared and unpaid dividends shall be paid in accordance with the provisions of Section 4(d).

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

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

**(o) Notices.** Any notice required by the provisions of this Section 4 shall be in writing and shall be deemed effectively given: (i) upon personal delivery to the party to be notified; (ii) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient; if not, then on the next business day; (iii) five (5) business days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (iv) one (1) business day after deposit with a nationally recognized overnight courier, specifying next day delivery, with verification of receipt. All notices shall be addressed to each holder of record at the address of such holder appearing on the books of the Company.

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

**5. NO REISSUANCE OF SERIES PREFERRED.**

Any shares of Series A Preferred or Series AA Preferred which are redeemed or otherwise acquired by the Company or any of its subsidiaries by reason purchase, conversion, or otherwise shall be automatically and immediately canceled and shall not be reissued, sold or transferred. Neither the Company nor any of its subsidiaries may exercise any voting or other rights granted to the holders of Series A Preferred or Series AA Preferred following redemption.

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

**1. DIVIDEND RIGHTS.** Subject to the prior rights of the 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, out of any assets of the Company legally available therefore, such dividends as may be declared from time to time by the Board.

**2. LIQUIDATION RIGHTS.** Upon the occurrence of a Liquidation Event, the assets of the Company shall be distributed as provided in Section E.3.

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

**V.**

**A.** The liability of the directors of the Company for monetary damages shall be eliminated to the fullest extent under applicable law. To the fullest extent permitted by applicable law, the Company is authorized to provide indemnification of (and advancement of expenses to) agents of the Company (and any other persons to which the Act permits the Company to provide indemnification) through Bylaw provisions, agreements with such agents or other persons, vote of shareholders or disinterested directors or otherwise, in excess of the indemnification and advancement otherwise permitted by the Act.

**B.** This Article V shall not affect any provision permitted under the Act in these amended and restated articles of incorporation, bylaws or contract or resolution of the Company indemnifying or agreeing to indemnify a director or officer against personal liability. Any repeal or modification of this Article V shall only be prospective and shall not affect the rights under this Article V in effect at the time of the alleged occurrence of any action or omission to act giving rise to liability.

**VI.**

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

**A.** The management of the business and the conduct of the affairs of the Company shall be vested in its Board. The number of directors which shall constitute the whole Board

shall be fixed by the Board in the manner provided in the Bylaws, subject to any restrictions which may be set forth in this these Amended and Restated Articles of Incorporation.

**B.** The Board of Directors is expressly empowered to adopt, amend or repeal the Bylaws of the Company. The shareholders shall also have the power to adopt, amend or repeal the Bylaws of the Company.

**C.** The directors of the Company need not be elected by written ballot unless the Bylaws so provide.

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**FOUR:** These Second Amended and Restated Articles of Incorporation have been duly approved by the Board of Directors of the Company.

**FIVE:** These Second Amended and Restated Articles of Incorporation were approved by the holders of the requisite number of shares of said corporation in accordance with the Act.

**[Remainder of Page Intentionally Left Blank]**

**IN WITNESS WHEREOF**, Giveo, Inc. has caused these Second Amended and Restated Articles of Incorporation to be signed by its President and Chief Executive Officer this 16<sup>th</sup> day of July, 2012.

**GIVEO, INC.**

By: /s/ Ed Messman \_\_\_\_\_

**ED MESSMAN**

President & Chief Executive Officer