

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM312668

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	Conversion		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Cupertino Electric, Inc.		05/31/2000	CORPORATION: CALIFORNIA
RECEIVING PARTY DATA			
Name:	Cupertino Electric, Inc.		
Street Address:	1132 North Seventh St.		
City:	San Jose		
State/Country:	CALIFORNIA		
Postal Code:	95112		
Entity Type:	CORPORATION: DELAWARE		
PROPERTY NUMBERS Total: 1			
Property Type	Number	Word Mark	
Registration Number:	1303119	CE	
CORRESPONDENCE DATA			
Fax Number:	4082750484		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
Phone:	408.808.8213		
Email:	Josephine_Nocon@cei.com		
Correspondent Name:	Josephine C. Nocon		
Address Line 1:	1132 North Seventh St		
Address Line 4:	San Jose, CALIFORNIA 95112		
NAME OF SUBMITTER:	Josephine Nocon		
SIGNATURE:	/Josephine Nocon/		
DATE SIGNED:	08/01/2014		
Total Attachments: 66			
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Delaware

PAGE 1

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED ARE TRUE AND CORRECT COPIES OF ALL DOCUMENTS FILED FROM AND INCLUDING THE RESTATED CERTIFICATE OR A MERGER WITH A RESTATED CERTIFICATE ATTACHED OF "CUPERTINO ELECTRIC, INC." AS RECEIVED AND FILED IN THIS OFFICE.

THE FOLLOWING DOCUMENTS HAVE BEEN CERTIFIED:

RESTATED CERTIFICATE, FILED THE TWENTY-FOURTH DAY OF JUNE, A.D. 2010, AT 2:42 O'CLOCK P.M.

CERTIFICATE OF CHANGE OF REGISTERED AGENT, FILED THE TWENTY-SEVENTH DAY OF AUGUST, A.D. 2010, AT 5:05 O'CLOCK P.M.

CERTIFICATE OF AMENDMENT, FILED THE FIRST DAY OF OCTOBER, A.D. 2010, AT 3:15 O'CLOCK P.M.

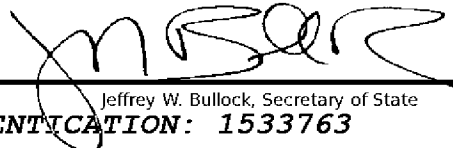
CERTIFICATE OF MERGER, FILED THE THIRTIETH DAY OF SEPTEMBER, A.D. 2011, AT 5:21 O'CLOCK P.M.

CERTIFICATE OF AMENDMENT, FILED THE TWENTY-FIRST DAY OF DECEMBER, A.D. 2012, AT 5:34 O'CLOCK P.M.

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Jeffrey W. Bullock, Secretary of State
AUTHENTICATION: 1533763

DATE: 07-14-14

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

TRADEMARK
REEL: 005335 FRAME: 0004

**THIRD AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
CUPERTINO ELECTRIC, INC.**

John Boncher hereby certifies that:

1. He is the duly elected and acting Chief Executive Officer of Cupertino Electric, Inc., a Delaware corporation (the "Corporation").
2. The date of the filing of the original Certificate of Incorporation of the Corporation with the Secretary of State of the State of Delaware is May 31, 2000 under the name of Delaware Synergism, Inc.
3. The date of the filing of the Amended and Restated Certificate of Incorporation of the Corporation with the Secretary of State of the State of Delaware is October 13, 2000 under the name of Cupertino Electric, Inc.
4. The date of the filing of the Second Amended and Restated Certificate of Incorporation of the Corporation with the Secretary of State of the State of Delaware is June 20, 2007 under the name of Cupertino Electric, Inc.
5. The Second Amended and Restated Certificate of Incorporation of the Corporation is hereby amended and restated to read as follows:

ARTICLE I

The name of the Corporation is Cupertino Electric, Inc.

ARTICLE II

The address of the registered office of the Corporation in the State of Delaware is 2711 Centerville Road, Suite 400, in the City of Wilmington, County of New Castle, 19808. The name of its registered agent at such address is: Corporation Service Company.

ARTICLE III

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 of Delaware.

ARTICLE IV

A. This Corporation is authorized to issue two classes of shares to be designated respectively Common Stock, par value \$.00004 per share ("Common Stock"), and Preferred Stock, par value \$.001 per share ("Preferred Stock"). The total number of shares of capital stock that the Corporation is authorized to issue is one-hundred three million five-hundred thousand (103,500,000). The total number of shares of Preferred Stock that the Corporation shall have authority to issue is twenty-eight million five-hundred thousand (28,500,000). The total number of shares of Common Stock that the Corporation shall have authority to issue is seventy-five million (75,000,000). Each share of Class A Common Stock authorized under the Corporation's Amended and Restated Certificate of Incorporation and outstanding as of the date of the filing of this Third Amended and Restated Certificate of Incorporation shall be deemed to and shall, automatically and without any action by the Corporation or the holder thereof or any person, constitute a share of Common Stock authorized hereunder with the powers, preferences, rights and restrictions of the Common Stock, and subject to all provisions relating to the Common Stock, in each case as set forth herein, and each certificate for or other evidence of any share of such Class A Common Stock, shall be deemed to and shall, automatically and without any action by the Corporation or the holder thereof or any person, constitute a certificate for or evidence of an equivalent number of shares of the Common Stock.

B. The powers, preferences, rights, restrictions, and other matters relating to the Common Stock are as follows:

1. Voting Rights.

The holder of each share of Common Stock shall have the right to one (1) vote for each such share, and shall be entitled to vote upon such matters and in such manner in which the stockholders of the Corporation shall be entitled to vote or as otherwise provided by law.

2. Distributions. Subject to payment having been made to the holders of the Series B Preferred and the Series A Preferred (as defined below) of the full amounts to which they shall be entitled pursuant to Section IV.D.1 below, the Board of Directors (as defined in Article VI below) may cause dividends to be paid to holders of shares of Common Stock out of funds legally available for the payment of dividends. Any dividend or other distribution on the Common Stock shall be payable ratably to the holders of Common Stock, share and share alike.

3. Liquidation Rights. In the event of any dissolution, Sale Event (as defined in Section IV.D.2.d below) liquidation or winding up of the affairs of the Corporation, whether voluntary or involuntary, after payment or provision for payment of the debts and other liabilities of the Corporation, and subject to payment having been made of the full preferential amounts due to the holders of the Series A Preferred and Series B Preferred pursuant to Section IV.D.2, the remaining assets and funds of the Corporation, if any, shall be divided among and paid ratably to the holders of Common Stock, share and share alike.

4. Stock Splits and Stock Dividends. The Corporation shall not in any manner subdivide (by stock split, stock dividend or otherwise) or combine (by reverse stock

split or otherwise) any shares of the outstanding Common Stock unless all shares of the outstanding Common Stock shall be subdivided or combined in like manner.

C. The Preferred Stock shall be divided into three series. The first series shall consist of seven million five hundred thousand (7,500,000) shares of Series A-1 Preferred Stock, par value \$0.001 per share (the "Series A-1 Preferred"), the second series shall consist of seven million five hundred thousand (7,500,000) shares of Series A-2 Preferred Stock, par value \$0.001 per share (the "Series A-2 Preferred"), and the third series shall consist of thirteen million five-hundred thousand (13,500,000) shares of Series B Preferred Stock, par value \$0.001 per share (the "Series B Preferred"). The Series A-1 Preferred and the Series A-2 Preferred are referred to collectively as the "Series A Preferred"; the Series A Preferred and the Series B Preferred collectively comprise the Preferred Stock.

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

1. Dividends.

a. The holders of the Series A Preferred shall be entitled to receive dividends, in preference to the holders of Series B Preferred and the holders of Common Stock, accruing at the rate of nine percent (9%) per annum on the Series A Purchase Price (as defined below) 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) payable to the extent permitted under the Corporation's senior credit facility and otherwise from legally available funds in cash. Such dividends shall be cumulative and shall accrue on each share of Series A Preferred from the date of issuance of such share, whether or not declared, and shall be payable on each Series A Dividend Payment Date (as defined below) occurring after the date of issuance of such share and also (i) on the date of any Series A Payment (as defined in Section IV.D.2.a hereof) on such share, (ii) by the issuance of additional shares of Common Stock in respect of the accrued and unpaid dividends upon the conversion of such share into Common Stock as provided in Section IV.D.5 hereof, (iii) on the date of any redemption of such share as provided in Section IV.D.3.b or c hereof and (iv) on the date of any payment of any dividend or distribution on the Series B Preferred or on the Common Stock otherwise permitted hereunder. Such dividends will be computed on the basis of actual days elapsed in a 365-day year. Such dividends shall be cumulative so that, if such dividends accrued as provided above and payable as of any date of determination have not been paid in full, the cumulative deficiency shall first be fully paid before any dividend or other distribution shall be declared and set apart or paid for the Series B Preferred or for the Common Stock. Any accumulation of dividends on the Series A Preferred shall not bear interest. The original issue price of the Series A Preferred shall be one dollar and eighty-five cents (\$1.85) per share (the "Series A Purchase Price"). "Series A Dividend Payment Date" shall mean the first day of each of January, April, July and October occurring after July 1, 2007, the first such Series A Dividend Payment Date being October 1, 2007.

b. Subject to payment having been made to the holders of the Series A Preferred of the full amounts to which they shall be entitled pursuant to Section IV.D.1.a above, the holders of the Series B Preferred shall be entitled to receive dividends, in

preference to the holders of Common Stock, accruing over any Series B Dividend Accrual Period (as defined below) at the Applicable Rate (as defined below) for such Series B Dividend Accrual Period multiplied by the Series B Purchase Price (as defined below) on each outstanding share of Series B Preferred (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares) payable to the extent permitted under the Corporation's senior credit facility and otherwise from legally available funds in cash. Such dividends shall be cumulative and shall accrue on each share of Series B Preferred from the date of issuance of such share, whether or not declared, and shall be payable on each Series B Dividend Payment Date (as defined below) occurring after the date of issuance of such share and also (i) on the date of any Series B Payment (as defined in Section IV.D.2.b hereof) on such share, (ii) by the issuance of additional shares of Common Stock in respect of the accrued and unpaid dividends upon the conversion of such share into Common Stock as provided in Section IV.D.5 hereof, (iii) on the date of any redemption of such share as provided in Section IV.D.3.a hereof and (iv) on the date of any payment of any dividend or distribution on the Common Stock otherwise permitted hereunder. Such dividends will be computed on the basis of actual days elapsed in a 365-day year. Such dividends shall be cumulative so that, if such dividends accrued as provided above and payable as of any date of determination have not been paid in full, the cumulative deficiency shall first be fully paid before any dividend or other distribution shall be declared and set apart or paid for the Common Stock. Any accumulation of dividends on the Series B Preferred shall not bear interest. The original issue price of the Series B Preferred shall be one dollar and sixty-eight cents (\$1.68) per share (the "Series B Purchase Price"). "Series B Dividend Payment Date" shall mean the first day of each of January, April, July and October occurring after July 1, 2010, the first such Series B Dividend Payment Date being October 1, 2010. "Series B Dividend Accrual Period" shall mean each period of three consecutive calendar months ending on the date immediately before a Series B Dividend Payment Date. The "Applicable Rate" in effect for any Series B Dividend Accrual Period shall be the rate per annum equal to the sum of (i) the WSJ Prime Rate (as defined below) on the tenth (10th) Business Day before the last Business Day occurring within such Series B Dividend Accrual Period, as determined by the Board of Directors, plus (ii) one percent (1%). The "WSJ Prime Rate" shall mean, on any date of determination, a rate per annum equal to the rate indicated as the latest United States prime rate in the Money Rates section (or its successor) of the edition of *The Wall Street Journal* published on such date of determination (or, if *The Wall Street Journal* is not published or does not indicate such a rate on such date of determination, on the most recent prior date on which *The Wall Street Journal* was published or indicated such a rate); provided, however, that if as of any date of determination such a rate shall have ceased regularly to be determinable from *The Wall Street Journal*, the "WSJ Prime Rate" shall mean such rate per annum as the Board of Directors determines to comprise a rate that reasonably represents prevailing prime rates quoted by major commercial banks as of such date of determination. "Business Day" shall mean any day other than a Saturday, Sunday or other day on which commercial banks are closed or authorized to be closed in California.

c. If the aggregate amount paid on the date of any payment of dividends on a series of the Preferred Stock shall be insufficient to permit the payment in full of all dividends then accrued and payable as provided in this Section IV.D.1 on all shares of such series of Preferred Stock, then the amount so paid shall be distributed (i) in the case of any such payment to the holders of the Series A Preferred, ratably among the holders of the

Series A Preferred in proportion to the respective numbers of shares of Series A Preferred then held by such holders and (ii) in the case of any such payment to the holders of the Series B Preferred (but in any event only after and subject to payment having been made to the holders of the Series A Preferred of the full amounts to which they shall then be entitled pursuant to Section IV.D.1.a above), ratably among the holders of the Series B Preferred in proportion to the respective numbers of shares of Series B Preferred then held by such holders

d. In the event the Corporation shall declare a distribution on Common Stock payable in securities of other persons, evidences of indebtedness issued by the Corporation or other persons, assets (excluding cash dividends) or options or rights to purchase any such securities or evidences of indebtedness, then, in each such case, the holders of the Preferred Stock shall be entitled to a proportionate share of any such distribution as though the holders of the Preferred Stock were the holders of the number of shares of Common Stock into which their respective shares of Preferred Stock are convertible as of the record date fixed for the determination of the holders of Common Stock entitled to receive such distribution.

e. In the event the Corporation is unable to pay any dividend when due and payable on any shares of Preferred Stock, the Corporation will pay to the holder of such share, to the extent that such payment is permitted under the Corporation's senior credit facility and can otherwise be made from legally available funds, on such date, if any, on which the holder of such share is obligated to pay taxes on imputed income arising on account of such unpaid dividend otherwise due and payable, an amount (a "Tax Advance Amount") equal to the amount of such taxes that such holder has reasonably determined that such holder is so obligated to pay, as certified by such holder to the Corporation. Any Tax Advance Amount paid on account of an unpaid dividend otherwise due and payable shall be credited against and deducted from the amount of such dividend thereafter remaining payable.

2. Liquidation Preference.

a. In the event of any liquidation, Sale Event (as defined in paragraph d below), dissolution or winding up of the Corporation, whether voluntary or involuntary, the holders of the Series A Preferred shall be entitled to receive, prior and in preference to any distribution of any of the assets or surplus funds of the Corporation to the holders of the Series B Preferred or the holders of the Common Stock, by reason of their ownership thereof the amount of \$1.85 per share (as adjusted for any stock dividends, combinations or splits with respect to such shares), plus all accrued or declared but unpaid dividends to the date of such liquidation, dissolution, winding up or Sale Event, on such share for each share of Series A Preferred then held by them (the "Series A Payment"). The Series A-1 Preferred and Series A-2 Preferred shall rank on a parity as to the receipt of the respective preferential amounts for each such series upon the occurrence of such event. If, upon the occurrence of such event, the assets and funds available for distribution among the holders of the Series A Preferred shall be insufficient to permit the payment to such holders of the full aforesaid preferential amount, then the entire amount of such assets and funds of the Corporation legally available for distribution shall be distributed ratably among the holders of

the Series A Preferred in proportion to the respective preferential amounts such holders are otherwise entitled to receive.

b. In the event of any liquidation, Sale Event, dissolution or winding up of the Corporation, whether voluntary or involuntary, subject to the payment in full of the liquidation preferences with respect to the Series A Preferred as provided in paragraph a of this Section IV.D.2, the holders of the Series B Preferred shall be entitled to receive, prior and in preference to any distribution of any of the assets or surplus funds of the Corporation to the holders of the Common Stock, by reason of their ownership thereof the amount of \$1.68 per share (as adjusted for any stock dividends, combinations or splits with respect to such shares), plus all accrued or declared but unpaid dividends to the date of such liquidation, dissolution, winding up or Sale Event, on such share for each share of Series B Preferred then held by them (the "Series B Payment"). If, upon the occurrence of such event and after the payment in full of the liquidation preferences with respect to the Series A Preferred as provided in paragraph a of this Section IV.D.2, the assets and funds available for distribution among the holders of the Series B Preferred shall be insufficient to permit the payment to such holders of the full aforesaid preferential amount, then the entire amount of such assets and funds of the Corporation legally available for distribution shall be distributed ratably among the holders of the Series B Preferred in proportion to the respective preferential amounts such holders are otherwise entitled to receive.

c. In the event of any liquidation, Sale Event, dissolution or winding up of the Corporation, either voluntary or involuntary, subject to the payment in full of the liquidation preferences with respect to the Series A Preferred and the Series B Preferred as provided in paragraphs a and b of this Section IV.D.2 the remaining assets and funds of the Corporation legally available for distribution shall be distributed among the holders of the Common Stock as provided in Section IV.B.3 above.

d. A "Sale Event" shall mean any of the following: (a) a sale, conveyance or other disposition of all or substantially all of the assets, property or business of the Corporation; or (b) any merger or consolidation of the Corporation with or into another person or corporation, other than (i) a merger or consolidation with a wholly-owned subsidiary of the Corporation or with another entity controlled by the same controlling shareholders of the Corporation immediately before such merger or consolidation, (ii) a merger effected exclusively to change the domicile of the Corporation, or (iii) an equity financing in which the Corporation is the surviving corporation.

e. Whenever the distribution provided for in this Section IV.D.2 shall be payable in securities or property other than cash, the value of such distribution shall be the fair market value of such securities or other property as determined in good faith by the Board of Directors.

3. Redemption.

a. Series B Preferred.

(i) Any holder of outstanding Series B Preferred may require the Corporation to redeem such holder's shares of Series B Preferred to the extent permitted under the Corporation's senior credit facility and otherwise from funds legally available for distribution, at a price per share equal to the Series B Redemption Price (as defined in and determined pursuant to paragraph a(iii) below) payable for such shares, provided, however, that all holders of Series B Preferred shall be given notice of any such requested redemption and the opportunity to participate therein on a pari passu basis pursuant to the terms of paragraph a(v) below and such redemptions shall otherwise be made on and subject to the terms of this Section IV.D.3.a and this Third Amended and Restated Certificate of Incorporation.

(ii) At any time and from time to time the Corporation may redeem all or a part of the outstanding shares of Series B Preferred to the extent permitted under the Corporation's senior credit facility and otherwise from funds legally available for distribution, at a price per share equal to the Series B Redemption Price (determined pursuant to paragraph a(iii) below) payable for such shares.

(iii) The "Series B Redemption Price" payable for any share in any redemption of the Series B Preferred pursuant to paragraph a(i) or a(ii) above shall be the Series B Purchase Price (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to the Series B Preferred) plus any unpaid dividends accrued on such share of Series B Preferred through the Series B Holder Redemption Date (as defined in paragraph a(vi) below) or Series B Corporation Redemption Date (as defined in paragraph a(vii) below), as the case may be, on which redemption of such share occurs.

(iv) Any redemption of the Series B Preferred pursuant to paragraph a(i) above (each a "Series B Holder Redemption") shall occur only during a period (each a "Holder Redemption Period") that is either (A) the period beginning on and including any June 20th and ending on and including the immediately following July 10th or (B) the period beginning on and including any December 20th and ending on and including the immediately following January 10th. The aggregate number of shares of Series B Preferred to be redeemed in any Series B Holder Redemption shall be not more than three million (3,000,000) shares (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to the Series B Preferred).

(v) If any holder of Series B Preferred elects to exercise such holder's option to cause the Corporation to redeem shares of Series B Preferred in a Series B Holder Redemption pursuant to paragraph a(i) above, such holder must, not earlier than ninety (90) days or later than thirty (30) days before the first day of the Holder Redemption Period in which such holder desires such Series B Holder Redemption to occur, deliver written notice (a "Series B Initiation Notice") of such election, specifying the Holder Redemption Period in which such holder desires such Series B Holder Redemption to occur, to the Corporation and the Corporation shall promptly deliver a copy of such Series B Initiation Notice to all other holders of Series B Preferred. Any other holder (a "Tag Along Series B Holder") may elect to have shares of Series B Preferred held by such Tag Along Series B Holder redeemed simultaneously by the Corporation in such Series B Holder Redemption along with the shares of Series B Preferred of the holder delivering such Series B Initiation Notice by delivering to the Corporation, within ten (10) days of delivery to such Tag Along Series B Holder of such Series

B Initiation Notice, a written notice (collectively with a Series B Initiation Notice being a "Series B Holder Redemption Notice") of such Tag Along Series B Holder's election to participate in the requested Series B Holder Redemption and the Corporation shall promptly deliver a copy of such Series B Holder Redemption Notice to all other holders of Series B Preferred. Each Series B Holder Redemption Notice shall either (A) specify the number of shares of Series B Preferred that the holder delivering such Series B Holder Redemption Notice seeks to have redeemed pursuant thereto or (B) indicate the holder seeks to have the maximum number of his, her or its shares of Series B Preferred redeemed pursuant thereto. In the event that the aggregate number of shares of Series B Preferred whose redemption is sought pursuant to all Series B Holder Redemption Notices delivered in respect of any Series B Holder Redemption exceeds either (1) three million (3,000,000) shares (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to the Series B Preferred) or (2) such number of shares for whose redemption the Corporation has sufficient funds legally available and available under the terms of the Corporation's senior credit facility, then the Corporation shall redeem in such Series B Holder Redemption only the lesser of (x) three million (3,000,000) shares (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to the Series B Preferred) and (y) such number as can be redeemed to the extent of funds legally available and available under the terms of its senior credit facility, and shall so redeem shares of Series B Preferred ratably from the holders seeking redemption in such Series B Holder Redemption (rounding down to the nearest whole number of shares in the case of any holder whose such ratable number of shares would otherwise include a fractional share) based on the relative numbers of outstanding shares of Series B Preferred held, at the time of their respective deliveries of Series B Holder Redemption Notices to the Corporation, by the respective holders delivering Series B Holder Redemption Notices in respect of such Series B Holder Redemption as provided above.

(vi) Redemptions of shares of Series B Preferred in any Series B Holder Redemption shall occur on one or more dates as designated by the Board of Directors (each being a "Series B Holder Redemption Date") occurring within the Holder Redemption Period for such Series B Holder Redemption. The number of shares of Series B Preferred to be redeemed on any Series B Holder Redemption Date for a Series B Holder Redemption shall be such number as the Board of Directors shall designate; provided, however, that the aggregate number of shares of Series B Preferred designated for redemption on all Series B Holder Redemption Dates for a Series B Holder Redemption shall equal the aggregate number of shares redeemable in such Series B Holder Redemption determined pursuant to paragraph a(v) above; provided further, however, that the shares of Series B Preferred to be redeemed on any Series B Holder Redemption Date for a Series B Holder Redemption shall be redeemed ratably from the holders of the shares of Series B Preferred redeemable in such Series B Holder Redemption (rounding down to the nearest whole number of shares in the case of any holder whose such ratable number of shares would otherwise include a fractional share) based on the relative numbers of such shares held by such holders. In the case of any Series B Holder Redemption, not later than ten (10) days before the first day of the Holder Redemption Period for such Series B Holder Redemption, the Corporation shall deliver, to each holder delivering a Series B Holder Redemption Notice in respect of such Series B Holder Redemption as provided in paragraph a(v) above, a notice (a "Series B Holder Redemption Confirmation") specifying (A) the aggregate number of shares of Series B Preferred to be redeemed in such Series B Holder Redemption, (B) the date or dates designated by the Board of

Directors as Series B Holder Redemption Dates for such Series B Holder Redemption, (C) the aggregate number of shares of Series B Preferred to be redeemed on each such Series B Holder Redemption Date and (D) the number of shares of Series B Preferred of such holder to be redeemed on each such Series B Holder Redemption Date (determined as specified in the second proviso of the second sentence of this paragraph a(vi)).

(vii) If the Corporation elects to redeem shares of Series B Preferred pursuant to paragraph a(ii) above, the Corporation must deliver written notice of such election to all holders of the Series B Preferred (a "Series B Corporation Redemption Notice"). Each Series B Corporation Redemption Notice shall specify the aggregate number of shares of Series B Preferred to be redeemed (or, in the case of a Series B Corporation Redemption Notice pertaining to a redemption of all such outstanding shares, that all such outstanding shares are to be so redeemed) pursuant thereto, in each case subject, however, to the provisions of paragraph a(viii) below. Redemptions of shares of Series B Preferred called for in a Series B Corporation Redemption Notice shall be made by the Corporation on the date (a "Series B Corporation Redemption Date") that is the 30th day (or the first Business Day thereafter if such 30th day is not a Business Day) after the date on which the Corporation dispatches such Series B Corporation Redemption Notice.

(viii) In the case of any redemption at the Corporation's option pursuant to paragraph a(ii) above of less than all of the shares of the Series B Preferred, the Corporation shall redeem the shares of the holders of the Series B Preferred ratably (rounding down to the nearest whole number of shares in the case of any holder whose such ratable number of shares would otherwise include a fractional share) based on the relative numbers of outstanding shares of Series B Preferred held by the respective holders immediately prior to such redemption. In the case of any redemption at the Corporation's option pursuant to paragraph a(ii) above, if the Corporation does not have sufficient funds legally available and available under the terms of the Corporation's senior credit facility to redeem all of the shares of Series B Preferred so to be redeemed on any Series B Corporation Redemption Date, then the Corporation shall redeem on such Series B Corporation Redemption Date only such shares as can be redeemed to the extent of funds legally available and available under the terms of its senior credit facility, and shall so redeem shares of the holders of the Series B Preferred ratably (rounding down to the nearest whole number of shares in the case of any holder whose such ratable number of shares would otherwise include a fractional share) based on the relative numbers of outstanding shares of Series B Preferred held by the respective holders immediately prior to such redemption.

(ix) Each holder of shares of Series B Preferred to be redeemed on a Series B Holder Redemption Date or Series B Corporation Redemption Date, as the case may be, will be required to present and surrender a certificate or certificates representing at least the number of such shares of Series B Preferred of such holder to be redeemed on such Series B Holder Redemption Date or Series B Corporation Redemption Date, as the case may be, (duly endorsed for transfer) to the Corporation at the principal executive offices of the Corporation. Subject to and upon the first Business Day following such presentation and surrender (but not earlier than the Series B Holder Redemption Date or Series B Corporation Redemption Date, as the case may be, for redemption of the shares represented thereby) of certificates representing such shares, the Corporation shall pay an amount equal to

the aggregate Series B Redemption Price payable for such shares to the person whose name appears on such certificate or certificates so surrendered. If the number of shares represented by the certificate or certificates surrendered by a holder in any Series B Holder Redemption or Series B Corporation Redemption, as the case may be, shall exceed the number of shares of such holder to be redeemed in such redemption, the Corporation shall issue and deliver to the person entitled thereto a certificate or certificates representing the unredeemed balance of such shares.

(x) From and after each Series B Holder Redemption Date or Series B Corporation Redemption Date, as the case may be, all dividends shall cease to accrue with respect to the shares redeemed on such date pursuant to this Section IV.D.3.a, and all rights arising from such shares of the holders of any shares redeemed on such date as stockholders of the Corporation, except the right to receive the applicable Series B Redemption Price payable therefor, shall cease and terminate; provided, however, that in the event that the Corporation fails to pay the Series B Redemption Price payable for any shares to be redeemed pursuant to this Section IV.D.3.a on or before the first Business Day following surrender of the certificate or certificates representing such shares as provided in paragraph a(ix) above, the Corporation shall also pay to the person entitled to payment of such Series B Redemption Price interest on the amount of such Series B Redemption Price so payable, accruing (on the basis of actual days elapsed in a 365-day year) at a rate per annum equal to the Applicable Series B Redemption Rate from and including such first Business Day on which such amount became so payable (being a "Series B Redemption Payment Due Date") to and excluding the date on which such amount is paid. The "Applicable Series B Redemption Rate", in the case of any interest accruing from a Series B Redemption Payment Due Date pursuant to the preceding sentence, shall mean the rate per annum equal to the sum of (A) the WSJ Prime Rate (as defined in Section IV.D.1.b above) on such Series B Redemption Payment Due Date, determined as specified in Section IV.D.1.b above, plus (B) one percent (1%).

(xi) All Series B Holder Redemption Notices, Series B Holder Redemption Confirmations and Series B Corporation Redemption Notices hereunder shall be in writing and shall be deemed effectively given and delivered: (1) upon personal delivery to the party to be notified; (2) five days after having been sent by registered or certified mail, return receipt requested, postage prepaid; (3) upon confirmation of successful electronic transmission via email or facsimile to the party to be notified (or if such confirmation occurs after regular business hours, then upon commencement of the next business day); or (4) one day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All Series B Holder Redemption Notices to the Corporation shall be sent to the address of its corporate headquarters. All Series B Holder Redemption Notices, Series B Holder Redemption Confirmations and Series B Corporation Redemption Notices to any stockholder shall be sent to the address of such stockholder in the Corporation's books and records.

b. Series A-1 Preferred.

(i) After the first date (the "Series A-1 Redemption Eligibility Date") as of which both (A) the initial issuance of the Series B Preferred shall have occurred and (B) there shall no longer be issued and outstanding any shares of Series B Preferred, any holder of outstanding Series A-1 Preferred may require the Corporation to

redeem such holder's shares of Series A-1 Preferred to the extent permitted under the Corporation's senior credit facility and otherwise from funds legally available for distribution, at a price per share equal to the Series A-1 Redemption Price (as defined in and determined pursuant to paragraph b(iii) below) payable for such shares, provided, however, that all holders of Series A-1 Preferred shall be given notice of any such requested redemption and the opportunity to participate therein on a pari passu basis pursuant to the terms of paragraph b(v) below and such redemptions shall otherwise be made on and subject to the terms of this Section IV.D.3.b and this Third Amended and Restated Certificate of Incorporation.

(ii) At any time and from time to time after the Series A-1 Redemption Eligibility Date the Corporation may redeem all or a part of the outstanding shares of Series A-1 Preferred to the extent permitted under the Corporation's senior credit facility and otherwise from funds legally available for distribution, at a price per share equal to the Series A-1 Redemption Price (determined pursuant to paragraph b(iii) below) payable for such shares.

(iii) The "Series A-1 Redemption Price" payable for any share in any redemption of the Series A-1 Preferred pursuant to paragraph b(i) or b(ii) above shall be the Series A Purchase Price (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to the Series A-1 Preferred) plus any unpaid dividends accrued on such share of Series A-1 Preferred through the Series A-1 Holder Redemption Date (as defined in paragraph b(vi) below) or Series A-1 Corporation Redemption Date (as defined in paragraph b(vii) below), as the case may be, on which redemption of such share occurs.

(iv) Any redemption of the Series A-1 Preferred pursuant to paragraph b(i) above (each a "Series A-1 Holder Redemption") shall occur only if the Series A-1 Redemption Eligibility Date shall have occurred and shall occur only during a Holder Redemption Period (as defined in Section IV.D.3.a(iv) above). The aggregate number of shares of Series A-1 Preferred to be redeemed in any Series A-1 Holder Redemption shall be not more than one-million three-hundred-fifty-thousand (1,350,000) shares (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to the Series A-1 Preferred).

(v) If any holder of Series A-1 Preferred elects to exercise such holder's option to cause the Corporation to redeem shares of Series A-1 Preferred in a Series A-1 Holder Redemption pursuant to paragraph b(i) above, such holder must, not earlier than ninety (90) days or later than thirty (30) days before the first day of the Holder Redemption Period in which such holder desires such Series A-1 Holder Redemption to occur, deliver written notice (a "Series A-1 Initiation Notice") of such election, specifying the Holder Redemption Period in which such holder desires such Series A-1 Holder Redemption to occur, to the Corporation and the Corporation shall promptly deliver a copy of such Series A-1 Initiation Notice to all other holders of Series A-1 Preferred. Any other holder (a "Tag Along Series A-1 Holder") may elect to have shares of Series A-1 Preferred held by such Tag Along Series A-1 Holder redeemed simultaneously by the Corporation in such Series A-1 Holder Redemption along with the shares of Series A-1 Preferred of the holder delivering such Series A-1 Initiation Notice by delivering to the Corporation, within ten (10) days of delivery to such Tag Along

Series A-1 Holder of such Series A-1 Initiation Notice, a written notice (collectively with a Series A-1 Initiation Notice being a "Series A-1 Holder Redemption Notice") of such Tag Along Series A-1 Holder's election to participate in the requested Series A-1 Holder Redemption and the Corporation shall promptly deliver a copy of such Series A-1 Holder Redemption Notice to all other holders of Series A-1 Preferred. Each Series A-1 Holder Redemption Notice shall either (A) specify the number of shares of Series A-1 Preferred that the holder delivering such Series A-1 Holder Redemption Notice seeks to have redeemed pursuant thereto or (B) indicate the holder seeks to have the maximum number of his, her or its shares of Series A-1 Preferred redeemed pursuant thereto. In the event that the aggregate number of shares of Series A-1 Preferred whose redemption is sought pursuant to all Series A-1 Holder Redemption Notices delivered in respect of any Series A-1 Holder Redemption exceeds either (1) one-million three-hundred-fifty-thousand (1,350,000) shares (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to the Series A-1 Preferred) or (2) such number of shares for whose redemption the Corporation has sufficient funds legally available and available under the terms of the Corporation's senior credit facility, then the Corporation shall redeem in such Series A-1 Holder Redemption only the lesser of (x) one-million three-hundred-fifty-thousand (1,350,000) shares (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to the Series A-1 Preferred) and (y) such number as can be redeemed to the extent of funds legally available and available under the terms of its senior credit facility, and shall so redeem shares of Series A-1 Preferred ratably from the holders seeking redemption in such Series A-1 Holder Redemption (rounding down to the nearest whole number of shares in the case of any holder whose such ratable number of shares would otherwise include a fractional share) based on the relative numbers of outstanding shares of Series A-1 Preferred held, at the time of their respective deliveries of Series A-1 Holder Redemption Notices to the Corporation, by the respective holders delivering Series A-1 Holder Redemption Notices in respect of such Series A-1 Holder Redemption as provided above.

(vi) Redemptions of shares of Series A-1 Preferred in any Series A-1 Holder Redemption shall occur on one or more dates as designated by the Board of Directors (each being a "Series A-1 Holder Redemption Date") occurring within the Holder Redemption Period for such Series A-1 Holder Redemption. The number of shares of Series A-1 Preferred to be redeemed on any Series A-1 Holder Redemption Date for a Series A-1 Holder Redemption shall be such number as the Board of Directors shall designate; provided, however, that the aggregate number of shares of Series A-1 Preferred designated for redemption on all Series A-1 Holder Redemption Dates for a Series A-1 Holder Redemption shall equal the aggregate number of shares redeemable in such Series A-1 Holder Redemption determined pursuant to paragraph b(v) above; provided further, however, that the shares of Series A-1 Preferred to be redeemed on any Series A-1 Holder Redemption Date for a Series A-1 Holder Redemption shall be redeemed ratably from the holders of the shares of Series A-1 Preferred redeemable in such Series A-1 Holder Redemption (rounding down to the nearest whole number of shares in the case of any holder whose such ratable number of shares would otherwise include a fractional share) based on the relative numbers of such shares held by such holders. In the case of any Series A-1 Holder Redemption, not later than ten (10) days before the first day of the Holder Redemption Period for such Series A-1 Holder Redemption, the Corporation shall deliver, to each holder delivering a Series A-1 Holder Redemption Notice in respect of such Series A-1 Holder Redemption as provided in paragraph b(v) above, a notice (a "Series A-1 Holder Redemption Confirmation") specifying (A) the aggregate number of shares of Series A-1

Preferred to be redeemed in such Series A-1 Holder Redemption, (B) the date or dates designated by the Board of Directors as Series A-1 Holder Redemption Dates for such Series A-1 Holder Redemption, (C) the aggregate number of shares of Series A-1 Preferred to be redeemed on each such Series A-1 Holder Redemption Date and (D) the number of shares of Series A-1 Preferred of such holder to be redeemed on each such Series A-1 Holder Redemption Date (determined as specified in the second proviso of the second sentence of this paragraph b(vi)).

(vii) If the Corporation elects to redeem shares of Series A-1 Preferred pursuant to paragraph b(ii) above, the Corporation must deliver written notice of such election to all holders of the Series A-1 Preferred (a "Series A-1 Corporation Redemption Notice"). Each Series A-1 Corporation Redemption Notice shall specify the aggregate number of shares of Series A-1 Preferred to be redeemed (or, in the case of a Series A-1 Corporation Redemption Notice pertaining to a redemption of all such outstanding shares, that all such outstanding shares are to be so redeemed) pursuant thereto, in each case subject, however, to the provisions of paragraph b(viii) below. Redemptions of shares of Series A-1 Preferred called for in a Series A-1 Corporation Redemption Notice shall be made by the Corporation on the date (a "Series A-1 Corporation Redemption Date") that is the 30th day (or the first Business Day thereafter if such 30th day is not a Business Day) after the date on which the Corporation dispatches such Series A-1 Corporation Redemption Notice.

(viii) In the case of any redemption at the Corporation's option pursuant to paragraph b(ii) above of less than all of the shares of the Series A-1 Preferred, the Corporation shall redeem the shares of the holders of the Series A-1 Preferred ratably (rounding down to the nearest whole number of shares in the case of any holder whose such ratable number of shares would otherwise include a fractional share) based on the relative numbers of outstanding shares of Series A-1 Preferred held by the respective holders immediately prior to such redemption. In the case of any redemption at the Corporation's option pursuant to paragraph b(ii) above, if the Corporation does not have sufficient funds legally available and available under the terms of the Corporation's senior credit facility to redeem all of the shares of Series A-1 Preferred so to be redeemed on any Series A-1 Corporation Redemption Date, then the Corporation shall redeem on such Series A-1 Corporation Redemption Date only such shares as can be redeemed to the extent of funds legally available and available under the terms of its senior credit facility, and shall so redeem shares of the holders of the Series A-1 Preferred ratably (rounding down to the nearest whole number of shares in the case of any holder whose such ratable number of shares would otherwise include a fractional share) based on the relative numbers of outstanding shares of Series A-1 Preferred held by the respective holders immediately prior to such redemption.

(ix) Each holder of shares of Series A-1 Preferred to be redeemed on a Series A-1 Holder Redemption Date or Series A-1 Corporation Redemption Date, as the case may be, will be required to present and surrender a certificate or certificates representing at least the number of such shares of Series A-1 Preferred of such holder to be redeemed on such Series A-1 Holder Redemption Date or Series A-1 Corporation Redemption Date, as the case may be, (duly endorsed for transfer) to the Corporation at the principal executive offices of the Corporation. Subject to and upon the first Business Day following such presentation and surrender (but not earlier than the Series A-1 Holder Redemption Date or Series A-1 Corporation Redemption Date, as the case may be, for

redemption of the shares represented thereby) of certificates representing such shares, the Corporation shall pay an amount equal to the aggregate Series A-1 Redemption Price payable for such shares to the person whose name appears on such certificate or certificates so surrendered. If the number of shares represented by the certificate or certificates surrendered by a holder in any Series A-1 Holder Redemption or Series A-1 Corporation Redemption, as the case may be, shall exceed the number of shares of such holder to be redeemed in such redemption, the Corporation shall issue and deliver to the person entitled thereto a certificate or certificates representing the unredeemed balance of such shares.

(x) From and after each Series A-1 Holder Redemption Date or Series A-1 Corporation Redemption Date, as the case may be, all dividends shall cease to accrue with respect to the shares redeemed on such date pursuant to this Section IV.D.3.b, and all rights arising from such shares of the holders of any shares redeemed on such date as stockholders of the Corporation, except the right to receive the applicable Series A-1 Redemption Price payable therefor, shall cease and terminate; provided, however, that in the event that the Corporation fails to pay the Series A-1 Redemption Price payable for any shares to be redeemed pursuant to this Section IV.D.3.b on or before the first Business Day following surrender of the certificate or certificates representing such shares as provided in paragraph b(ix) above, the Corporation shall also pay to the person entitled to payment of such Series A-1 Redemption Price interest on the amount of such Series A-1 Redemption Price so payable, accruing (on the basis of actual days elapsed in a 365-day year) at the rate of 9% per annum from and including such first Business Day on which such amount became so payable to and excluding the date on which such amount is paid.

(xi) All Series A-1 Holder Redemption Notices, Series A-1 Holder Redemption Confirmations and Series A-1 Corporation Redemption Notices hereunder shall be in writing and shall be deemed effectively given and delivered: (1) upon personal delivery to the party to be notified; (2) five days after having been sent by registered or certified mail, return receipt requested, postage prepaid; (3) upon confirmation of successful electronic transmission via email or facsimile to the party to be notified (or if such confirmation occurs after regular business hours, then upon commencement of the next business day); or (4) one day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All Series A-1 Holder Redemption Notices to the Corporation shall be sent to the address of its corporate headquarters. All Series A-1 Holder Redemption Notices, Series A-1 Holder Redemption Confirmations and Series A-1 Corporation Redemption Notices to any stockholder shall be sent to the address of such stockholder in the Corporation's books and records.

c. Series A-2 Preferred.

(i) After the first date (the "Series A-2 Redemption Eligibility Date") as of which both (A)(1) the initial issuance of the Series B Preferred shall have occurred and (2) there shall no longer be issued and outstanding any shares of Series B Preferred and (B) there shall no longer be issued and outstanding any shares of Series A-1 Preferred, any holder of outstanding Series A-2 Preferred may require the Corporation to redeem such holder's shares of Series A-2 Preferred to the extent permitted under the Corporation's senior credit facility and otherwise from funds legally available for distribution, at

a price per share equal to the Series A-2 Redemption Price (as defined in and determined pursuant to paragraph c(iii) below) payable for such shares, provided, however, that all holders of Series A-2 Preferred shall be given notice of any such requested redemption and the opportunity to participate therein on a pari passu basis pursuant to the terms of paragraph c(v) below and such redemptions shall otherwise be made on and subject to the terms of this Section IV.D.3.c and this Third Amended and Restated Certificate of Incorporation.

(ii) At any time and from time to time after the Series A-2 Redemption Eligibility Date the Corporation may redeem all or a part of the outstanding shares of Series A-2 Preferred to the extent permitted under the Corporation's senior credit facility and otherwise from funds legally available for distribution, at a price per share equal to the Series A-2 Redemption Price (determined pursuant to paragraph c(ii) below) payable for such shares.

(iii) The "Series A-2 Redemption Price" payable for any share in any redemption of the Series A-2 Preferred pursuant to paragraph c(i) or c(ii) above shall be the Series A Purchase Price (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to the Series A-2 Preferred) plus any unpaid dividends accrued on such share of Series A-2 Preferred through the Series A-2 Holder Redemption Date (as defined in paragraph c(vi) below) or Series A-2 Corporation Redemption Date (as defined in paragraph c(vii) below), as the case may be, on which redemption of such share occurs.

(iv) Any redemption of the Series A-2 Preferred pursuant to paragraph c(i) above (each a "Series A-2 Holder Redemption") shall occur only if the Series A-2 Redemption Eligibility Date shall have occurred and shall occur only during a Holder Redemption Period (as defined in Section IV.D.3.a(iv) above). The aggregate number of shares of Series A-2 Preferred to be redeemed in any Series A-2 Holder Redemption shall be not more than one-million three-hundred-fifty-thousand (1,350,000) shares (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to the Series A-2 Preferred).

(v) If any holder of Series A-2 Preferred elects to exercise such holder's option to cause the Corporation to redeem shares of Series A-2 Preferred in a Series A-2 Holder Redemption pursuant to paragraph c(i) above, such holder must, not earlier than ninety (90) days or later than thirty (30) days before the first day of the Holder Redemption Period in which such holder desires such Series A-2 Holder Redemption to occur, deliver written notice (a "Series A-2 Initiation Notice") of such election, specifying the Holder Redemption Period in which such holder desires such Series A-2 Holder Redemption to occur, to the Corporation and the Corporation shall promptly deliver a copy of such Series A-2 Initiation Notice to all other holders of Series A-2 Preferred. Any other holder (a "Tag Along Series A-2 Holder") may elect to have shares of Series A-2 Preferred held by such Tag Along Series A-2 Holder redeemed simultaneously by the Corporation in such Series A-2 Holder Redemption along with the shares of Series A-2 Preferred of the holder delivering such Series A-2 Initiation Notice by delivering to the Corporation, within ten (10) days of delivery to such Tag Along Series A-2 Holder of such Series A-2 Initiation Notice, a written notice (collectively with a Series A-2 Initiation Notice being a "Series A-2 Holder Redemption Notice") of such Tag Along

Series A-2 Holder's election to participate in the requested Series A-2 Holder Redemption and the Corporation shall promptly deliver a copy of such Series A-2 Holder Redemption Notice to all other holders of Series A-2 Preferred. Each Series A-2 Holder Redemption Notice shall either (A) specify the number of shares of Series A-2 Preferred that the holder delivering such Series A-2 Holder Redemption Notice seeks to have redeemed pursuant thereto or (B) indicate the holder seeks to have the maximum number of his, her or its shares of Series A-2 Preferred redeemed pursuant thereto. In the event that the aggregate number of shares of Series A-2 Preferred whose redemption is sought pursuant to all Series A-2 Holder Redemption Notices delivered in respect of any Series A-2 Holder Redemption exceeds either (1) one-million three-hundred-fifty-thousand (1,350,000) shares (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to the Series A-2 Preferred) or (2) such number of shares for whose redemption the Corporation has sufficient funds legally available and available under the terms of the Corporation's senior credit facility, then the Corporation shall redeem in such Series A-2 Holder Redemption only the lesser of (x) one-million three-hundred-fifty-thousand (1,350,000) shares (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to the Series A-2 Preferred) and (y) such number as can be redeemed to the extent of funds legally available and available under the terms of its senior credit facility, and shall so redeem shares of Series A-2 Preferred ratably from the holders seeking redemption in such Series A-2 Holder Redemption (rounding down to the nearest whole number of shares in the case of any holder whose such ratable number of shares would otherwise include a fractional share) based on the relative numbers of outstanding shares of Series A-2 Preferred held, at the time of their respective deliveries of Series A-2 Holder Redemption Notices to the Corporation, by the respective holders delivering Series A-2 Holder Redemption Notices in respect of such Series A-2 Holder Redemption as provided above.

(vi) Redemptions of shares of Series A-2 Preferred in any Series A-2 Holder Redemption shall occur on one or more dates as designated by the Board of Directors (each being a "Series A-2 Holder Redemption Date") occurring within the Holder Redemption Period for such Series A-2 Holder Redemption. The number of shares of Series A-2 Preferred to be redeemed on any Series A-2 Holder Redemption Date for a Series A-2 Holder Redemption shall be such number as the Board of Directors shall designate; provided, however, that the aggregate number of shares of Series A-2 Preferred designated for redemption on all Series A-2 Holder Redemption Dates for a Series A-2 Holder Redemption shall equal the aggregate number of shares redeemable in such Series A-2 Holder Redemption determined pursuant to paragraph c(v) above; provided further, however, that the shares of Series A-2 Preferred to be redeemed on any Series A-2 Holder Redemption Date for a Series A-2 Holder Redemption shall be redeemed ratably from the holders of the shares of Series A-2 Preferred redeemable in such Series A-2 Holder Redemption (rounding down to the nearest whole number of shares in the case of any holder whose such ratable number of shares would otherwise include a fractional share) based on the relative numbers of such shares held by such holders. In the case of any Series A-2 Holder Redemption, not later than ten (10) days before the first day of the Holder Redemption Period for such Series A-2 Holder Redemption, the Corporation shall deliver, to each holder delivering a Series A-2 Holder Redemption Notice in respect of such Series A-2 Holder Redemption as provided in paragraph c(v) above, a notice (a "Series A-2 Holder Redemption Confirmation") specifying (A) the aggregate number of shares of Series A-2 Preferred to be redeemed in such Series A-2 Holder Redemption, (B) the date or dates designated by the Board of Directors as Series A-2 Holder Redemption Dates for such Series A-2 Holder

Redemption, (C) the aggregate number of shares of Series A-2 Preferred to be redeemed on each such Series A-2 Holder Redemption Date and (D) the number of shares of Series A-2 Preferred of such holder to be redeemed on each such Series A-2 Holder Redemption Date (determined as specified in the second proviso of the second sentence of this paragraph c(vi)).

(vii) If the Corporation elects to redeem shares of Series A-2 Preferred pursuant to paragraph c(ii) above, the Corporation must deliver written notice of such election to all holders of the Series A-2 Preferred (a "Series A-2 Corporation Redemption Notice"). Each Series A-2 Corporation Redemption Notice shall specify the aggregate number of shares of Series A-2 Preferred to be redeemed (or, in the case of a Series A-2 Corporation Redemption Notice pertaining to a redemption of all such outstanding shares, that all such outstanding shares are to be so redeemed) pursuant thereto, in each case subject, however, to the provisions of paragraph c(viii) below. Redemptions of shares of Series A-2 Preferred called for in a Series A-2 Corporation Redemption Notice shall be made by the Corporation on the date (a "Series A-2 Corporation Redemption Date") that is the 30th day (or the first Business Day thereafter if such 30th day is not a Business Day) after the date on which the Corporation dispatches such Series A-2 Corporation Redemption Notice.

(viii) In the case of any redemption at the Corporation's option pursuant to paragraph c(ii) above of less than all of the shares of the Series A-2 Preferred, the Corporation shall redeem the shares of the holders of the Series A-2 Preferred ratably (rounding down to the nearest whole number of shares in the case of any holder whose such ratable number of shares would otherwise include a fractional share) based on the relative numbers of outstanding shares of Series A-2 Preferred held by the respective holders immediately prior to such redemption. In the case of any redemption at the Corporation's option pursuant to paragraph c(ii) above, if the Corporation does not have sufficient funds legally available and available under the terms of the Corporation's senior credit facility to redeem all of the shares of Series A-2 Preferred so to be redeemed on any Series A-2 Corporation Redemption Date, then the Corporation shall redeem on such Series A-2 Corporation Redemption Date only such shares as can be redeemed to the extent of funds legally available and available under the terms of its senior credit facility, and shall so redeem shares of the holders of the Series A-2 Preferred ratably (rounding down to the nearest whole number of shares in the case of any holder whose such ratable number of shares would otherwise include a fractional share) based on the relative numbers of outstanding shares of Series A-2 Preferred held by the respective holders immediately prior to such redemption.

(ix) Each holder of shares of Series A-2 Preferred to be redeemed on a Series A-2 Holder Redemption Date or Series A-2 Corporation Redemption Date, as the case may be, will be required to present and surrender a certificate or certificates representing at least the number of such shares of Series A-2 Preferred of such holder to be redeemed on such Series A-2 Holder Redemption Date or Series A-2 Corporation Redemption Date, as the case may be, (duly endorsed for transfer) to the Corporation at the principal executive offices of the Corporation. Subject to and upon the first Business Day following such presentation and surrender (but not earlier than the Series A-2 Holder Redemption Date or Series A-2 Corporation Redemption Date, as the case may be, for redemption of the shares represented thereby) of certificates representing such shares, the Corporation shall pay an amount equal to the aggregate Series A-2 Redemption Price payable for

such shares to the person whose name appears on such certificate or certificates so surrendered. If the number of shares represented by the certificate or certificates surrendered by a holder in any Series A-2 Holder Redemption or Series A-2 Corporation Redemption, as the case may be, shall exceed the number of shares of such holder to be redeemed in such redemption, the Corporation shall issue and deliver to the person entitled thereto a certificate or certificates representing the unredeemed balance of such shares.

(x) From and after each Series A-2 Holder Redemption Date or Series A-2 Corporation Redemption Date, as the case may be, all dividends shall cease to accrue with respect to the shares redeemed on such date pursuant to this Section IV.D.3.c, and all rights arising from such shares of the holders of any shares redeemed on such date as stockholders of the Corporation, except the right to receive the applicable Series A-2 Redemption Price payable therefor, shall cease and terminate; provided, however, that in the event that the Corporation fails to pay the Series A-2 Redemption Price payable for any shares to be redeemed pursuant to this Section IV.D.3.c on or before the first Business Day following surrender of the certificate or certificates representing such shares as provided in paragraph c(ix) above, the Corporation shall also pay to the person entitled to payment of such Series A-2 Redemption Price interest on the amount of such Series A-2 Redemption Price so payable, accruing (on the basis of actual days elapsed in a 365-day year) at the rate of 9% per annum from and including such first Business Day on which such amount became so payable to and excluding the date on which such amount is paid.

(xi) All Series A-2 Holder Redemption Notices, Series A-2 Holder Redemption Confirmations and Series A-2 Corporation Redemption Notices hereunder shall be in writing and shall be deemed effectively given and delivered: (1) upon personal delivery to the party to be notified; (2) five days after having been sent by registered or certified mail, return receipt requested, postage prepaid; (3) upon confirmation of successful electronic transmission via email or facsimile to the party to be notified (or if such confirmation occurs after regular business hours, then upon commencement of the next business day); or (4) one day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All Series A-2 Holder Redemption Notices to the Corporation shall be sent to the address of its corporate headquarters. All Series A-2 Holder Redemption Notices, Series A-2 Holder Redemption Confirmations and Series A-2 Corporation Redemption Notices to any stockholder shall be sent to the address of such stockholder in the Corporation's books and records.

4. Voting Rights. Each holder of shares of the Preferred Stock shall be entitled to the number of votes equal to the number of shares of Common Stock into which such shares of Preferred Stock could be converted and shall have voting rights and powers equal to the voting rights and powers of the Common Stock (except as required by law, voting together with the Common Stock as a single class) and shall be entitled to notice of any stockholders' meeting in accordance with the Bylaws of the Corporation. Fractional votes shall not, however, be permitted and any fractional voting rights resulting from the above formula (after aggregating all shares into which shares of Preferred Stock held by each holder could be converted) shall be rounded to the nearest whole number (with one-half being rounded upward).

5. Conversion. The holders of the Series A Preferred shall have conversion rights as follows:

a. Right to Convert. Each share of Series A Preferred shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share but prior to the date of redemption, if any, thereof, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing \$1.85 by the Series A Conversion Price, determined as hereinafter provided, in effect on the date the certificate for such share is surrendered for conversion of such share. The price at which shares of Common Stock shall be deliverable upon conversion of shares of the Series A Preferred (the "Series A Conversion Price") shall initially be \$1.85 per share of Common Stock. The Series A Conversion Price shall be adjusted as hereinafter provided.

b. Automatic Conversion. Each outstanding share of Series A Preferred shall automatically be converted into shares of Common Stock at the then-effective Series A Conversion Price in the event of either (x) the election of holders of a majority of the then outstanding shares of the Series A Preferred, voting together as a single class (with the holder of each share of Series A Preferred being entitled to the number of votes equal to the number of shares of Common Stock into which such share of Series A Preferred could be converted), or (y) the closing of an underwritten initial public offering of the Corporation's Common Stock pursuant to a registration statement under the Securities Act of 1933, as amended, with aggregate proceeds of at least \$20 million (net of underwriting discounts) (an "IPO").

c. Mechanics of Conversion.

(i) Before any holder of Series A Preferred shall be entitled to convert the same into shares of Common Stock, such holder shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Corporation or of any transfer agent for such stock, and shall give written notice to the Corporation at such office that such holder elects to convert the same. The Corporation shall, as soon as practicable thereafter, issue and deliver at such office to such holder of Series A Preferred, a certificate or certificates for the number of shares of Common Stock to which such holder shall be entitled as aforesaid. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of surrender of the certificate or certificates for the shares of Series A Preferred to be converted, and the person or persons entitled to receive the shares of Common Stock issuable

upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock on such date.

(ii) If the conversion is in connection with an underwritten offering of securities pursuant to the Securities Act of 1933, as amended, the conversion may, at the option of any holder tendering shares of Series A Preferred for conversion, be conditioned upon the closing with the underwriters of the sale of securities pursuant to such offering, in which event the person(s) entitled to receive the Common Stock upon conversion of each such share of Series A Preferred shall not be deemed to have converted such shares until immediately prior to the closing of such sale of securities.

d. Adjustments to Series A Conversion Prices for Certain Diluting Issues.

(i) Special Definitions. The following definitions apply herein:

(1) "Options" shall mean rights, options, or warrants to subscribe for, purchase or otherwise acquire either Common Stock or Convertible Securities (as defined below).

(2) "Third Restated Certificate Date" shall mean the date of filing of this Third Amended and Restated Certificate of Incorporation with the Secretary of State of the State of Delaware.

(3) "Convertible Securities" shall mean any evidences of indebtedness, shares (other than Common Stock or Series A Preferred) or other securities convertible into or exchangeable for Common Stock.

(4) "Additional Shares of Common Stock" shall mean all shares of Common Stock issued (or, pursuant to Section IV.D.5.d(iii), deemed to be issued) by the Corporation after the Third Restated Certificate Date, other than shares of Common Stock issued or issuable:

(A) upon conversion of shares of Series A Preferred;

(B) to officers, directors or employees of, or consultants to, the Corporation pursuant to stock option or stock purchase plans or agreements on terms approved by the Board of Directors, in up to an aggregate amount of shares of Common Stock equal to the sum of (x) 11,123,214 shares minus (y) the number of shares of restricted Common Stock issued under the Corporation's 2009 Equity Incentive Plan prior to the Third Restated Certificate Date, (in each case as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to the Common Stock);

(C) as a dividend or distribution on Series A Preferred;

(D) to financial institutions or lessors in connection with commercial credit arrangements, equipment financings, commercial property lease transactions, or similar transactions on terms approved by the Board of Directors;

(E) pursuant to warrants, notes or other rights to acquire securities of the Corporation outstanding as of or issued on the Third Restated Certificate Date and approved by the Board of Directors;

(F) in connection with any acquisition transaction approved by the Board of Directors to which the Corporation is a party;

(G) pursuant to a public offering;

(H) pursuant to any strategic partnership transaction approved by the Board of Directors to which the Corporation is a party;

(I) pursuant to any transaction in which exemption from these anti-dilution provisions set forth in this Section IV.D.5.d is approved by the holders of a majority of the Series A Preferred outstanding at the time of such approval; or

(J) for which adjustment of the Series A Conversion Price is made pursuant to Section IV.D.5.e.

(ii) No Adjustment of Conversion Price.

Notwithstanding any provision herein to the contrary, no adjustment in the Series A Conversion Price shall be made in respect of the issuance of Additional Shares of Common Stock unless the consideration per share (determined pursuant to Section IV.D.5.d(v) hereof) for an Additional Share of Common Stock issued or deemed to be issued by the Corporation is less than the Series A Conversion Price in effect on the date of, and immediately prior to, such issue.

(iii) Deemed Issue of Additional Shares of

Common Stock. In the event the Corporation at any time or from time to time after the Third Restated Certificate Date shall issue any Options or Convertible Securities or shall fix a record date for the determination of holders of any class of securities then entitled to receive any such Options or Convertible Securities, then the maximum number of shares (as set forth in the instrument relating thereto without regard to any provisions contained therein designed to protect against dilution) of Common Stock issuable upon the exercise of such Options or, in the case of Convertible Securities and Options therefor, the conversion or exchange of such Convertible Securities, shall be deemed to be Additional Shares of Common Stock issued as of the time of such issue or, in case such a record date shall have been fixed, as of the close of business on such record date, provided that in any such case in which Additional Shares of Common Stock are deemed to be issued:

(1) no further adjustments in the Series A Conversion Price shall be made upon the subsequent issue of Convertible Securities or shares of Common Stock upon the exercise of such Options or conversion or exchange of such Convertible Securities;

(2) if such Options or Convertible Securities by their terms provide, with the passage of time or otherwise, for any increase in the consideration payable to the Corporation, or decrease in the number of shares of Common Stock issuable, upon the exercise, conversion or exchange thereof, the Series A Conversion Price as adjusted upon the original issue thereof (or upon the occurrence of a record date with respect thereto), and any subsequent adjustments based thereon, shall, upon any such increase or decrease becoming effective, be readjusted to reflect such increase or decrease insofar as it affects such Options or the rights of conversion or exchange under such Convertible Securities (provided, however, that no such adjustment of the Series A Conversion Price shall affect Common Stock previously issued upon conversion of the Series A Preferred);

(3) upon the expiration or termination of any rights to exercise, convert or exchange pursuant to any Options or Convertible Securities, the Series A Conversion Price, to the extent in any way affected by or computed on account of such rights, shall be recomputed to reflect the issuance of only the number of shares of Common Stock actually issued upon the exercise of such rights (but continuing to give effect to any adjustment affected or computed on account of any rights to exercise, convert or exchange that have not expired or been terminated and remain in effect under such Options or Convertible Securities);

(4) no readjustment pursuant to clause (2) or (3) above shall have the effect of increasing the Series A Conversion Price to an amount which exceeds the lower of (a) the Series A Conversion Price on the original adjustment date, or (b) the Series A Conversion Price that would have resulted from any issuance of Additional Shares of Common Stock between the original adjustment date and such readjustment date.

(iv) Adjustment of Conversion Price Upon Issuance of Additional Shares of Common Stock. In the event this Corporation, at any time after the Third Restated Certificate Date, shall issue Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Section IV.D.5.d(iii)) without consideration or for a consideration per share less than the Series A Conversion Price in effect on the date of and immediately prior to such issue, then and in such event, the Series A Conversion Price shall be reduced, concurrently with such issue, to a price (calculated to the nearest cent) determined by multiplying the Series A Conversion Price by a fraction, the numerator of which shall be the number of shares of Common Stock outstanding immediately prior to such issue plus the number of shares of Common Stock which the aggregate consideration received by the Corporation for the total number of Additional Shares of Common Stock so issued would purchase at a price equal to such Series A Conversion Price in effect immediately prior to such issuance, and the denominator of which shall be the number of shares of Common Stock outstanding immediately prior to such issue plus the number of such Additional Shares of Common Stock so issued. For the purpose of the calculations provided for in this paragraph, the number of shares of Common Stock outstanding immediately prior to such issue shall be calculated on a fully diluted basis, as if all shares of Series A Preferred and all Convertible Securities had been fully converted into shares of Common Stock and any outstanding warrants, options or other rights for the purchase of shares of stock or convertible securities had been fully exercised (and the resulting securities fully converted into shares of Common Stock, if so convertible) as of such date.

(v) Determination of Consideration. For purposes of this Section IV.D.5.d, the consideration received by the Corporation for the issue of any Additional Shares of Common Stock shall be computed as follows:

(1) Cash and Property: Such consideration shall:

(A) insofar as it consists of cash, be computed at the aggregate amount of cash received by the Corporation excluding amounts paid or payable for accrued interest or accrued dividends;

(B) insofar as it consists of property other than cash, be computed at the fair value thereof at the time of such issue, as determined in good faith by the Board of Directors; and

(C) in the event Additional Shares of Common Stock are issued together with other shares or securities or other assets of the Corporation for consideration which covers both, be the proportion of such consideration so received, computed as provided in clauses (A) and (B) above, as determined in good faith by the Board of Directors.

(2) Options and Convertible Securities. The consideration per share received by the Corporation for Additional Shares of Common Stock deemed to have been issued pursuant to Section IV.D.5.d(iii) relating to Options and Convertible Securities shall be determined by dividing

(A) the total amount, if any, received or receivable by the Corporation as consideration for the issue of such Options or Convertible Securities, plus the minimum aggregate amount of additional consideration (as set forth in the instruments relating thereto, without regard to any provision contained therein designed to protect against dilution) payable to the Corporation upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities by

(B) the maximum number of shares of Common Stock (as set forth in the instruments relating thereto, without regard to any provision contained therein designed to protect against the dilution) issuable upon the exercise of such Options or conversion or exchange of such Convertible Securities.

e. Adjustments to Conversion Price for Stock Dividends and for Combinations or Subdivisions of Common Stock. In the event that this Corporation at any time or from time to time after the Third Restated Certificate Date shall declare or pay, without consideration, any dividend on the Common Stock payable in Common Stock or in any right to acquire Common Stock for no consideration, or shall effect a subdivision of the outstanding shares of Common Stock into a greater number of shares of Common Stock (by stock split, reclassification or otherwise than by payment of a dividend in Common Stock or in any right to acquire Common Stock), or in the event the outstanding shares of Common Stock shall be combined or consolidated, by reclassification or otherwise, into fewer numbers

of shares of Common Stock, then the Series A Conversion Price in effect immediately prior to such event shall, concurrently with the effectiveness of such event, be proportionately decreased or increased, as appropriate. In the event that this Corporation shall declare or pay, without consideration, any dividend on the Common Stock payable in any right to acquire Common Stock for no consideration, then the Corporation shall be deemed to have made a dividend payable in Common Stock in an amount of shares equal to the maximum number of shares issuable upon exercise of such rights to acquire Common Stock.

f. Adjustments for Reclassification and Reorganization. If the Common Stock issuable upon conversion of the Series A Preferred shall be changed into the same or a different number of shares of any other class or classes of stock, whether by capital reorganization, reclassification or otherwise (other than a subdivision or combination of shares provided for in Section IV.D.5.e above or a merger or other reorganization constituting a Sale Event), the Series A Conversion Price then in effect shall, concurrently with the effectiveness of such reorganization or reclassification, be proportionately adjusted so that the Series A Preferred shall be convertible into, in lieu of the number of shares of Common Stock which the holders would otherwise have been entitled to receive, a number of shares of such other class or classes of stock equivalent to the number of shares of Common Stock that would have been subject to receipt by the holders upon conversion of the Series A Preferred immediately before that change.

g. Certificates as to Adjustments. Upon the occurrence of each adjustment or readjustment of the Series A Conversion Price pursuant to this Section IV.D.5, the Corporation at its expense shall promptly compute such adjustment or readjustment in accordance with the terms hereof and prepare and furnish to each holder of Series A Preferred a certificate executed by the Corporation's Chief Executive Officer or Chief Financial Officer setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, upon the written request at any time of any holder of Series A Preferred, furnish or cause to be furnished to such holder a like certificate setting forth (i) such adjustments and readjustments, (ii) the Series A Conversion Price at the time in effect, and (iii) the number of shares of Common Stock and the amount, if any, of other property which at the time would be received upon the conversion of the Series A Preferred.

h. Notices of Record Date. In the event that the Corporation shall propose at any time: (i) to declare any dividend or distribution upon its Common Stock, whether in cash, property, stock or other securities, whether or not a regular cash dividend and whether or not out of earnings or earned surplus; (ii) to offer for subscription pro rata to the holders of any class or series of its stock any additional shares of stock of any class or series or other rights; (iii) to effect any reclassification or recapitalization of its Common Stock outstanding involving a change in the Common Stock; or (iv) to merge or consolidate with or into any other corporation, or sell, lease or convey all or substantially all of its assets, or to liquidate, dissolve or wind up, the Corporation shall mail to each holder of Series A Preferred, at least 20 days prior to the date specified therein, a notice specifying the date of such event, in the case of any event specified in clause (iii) or (iv), or the date on which a record is to be taken for the purpose of any such dividend, distribution or offer specified in clause (i) or (ii).

i. Issue Taxes. The Corporation shall pay any and all issue and other taxes that may be payable in respect of any issue or delivery of shares of Common Stock on conversion of shares of Series A Preferred pursuant hereto; provided, however, that the Corporation shall not be obligated to pay any transfer taxes resulting from any transfer requested by any holder in connection with any such conversion.

j. Reservation of Stock Issuable Upon Conversion. The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of the shares of the Series A Preferred, 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 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, the Corporation will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purpose, including, without limitation, engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to this Third Amended and Restated Certificate of Incorporation.

k. Fractional Shares. No fractional share shall be issued upon the conversion of any share or shares of Series A Preferred. All shares of Common Stock (including fractions thereof) issuable upon conversion of more than one share of Series A 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 a fraction of a share of Common Stock, the Corporation shall, in lieu of issuing any fractional share, pay the holder otherwise entitled to such fraction a sum in cash equal to the fair market value of such fraction on the date of conversion (as determined in good faith by the Board of Directors).

l. Notices. Any notice required by the provisions of this Section IV.D.5 to be given to the holders of shares of Series A Preferred shall be deemed given if deposited in the United States mail, postage prepaid, and addressed to each holder of record at his address appearing on the books of the Corporation.

6. Restrictions and Limitations.

a. So long as any shares of Series A Preferred remain outstanding, the Corporation shall not, without the prior written consent of the holders of at least a majority of the number of shares of the Series A Preferred then outstanding (voting as a single class), take any action that:

- (i) Alters or changes the rights, preferences or privileges of the Series A Preferred so as to materially and adversely affect such shares;
- (ii) Increases or decreases the number of authorized shares of Series A Preferred;

(iii) Authorizes the issuance of securities having a preference over or on a parity with the Series A Preferred; or

(iv) Amends this Third Amended and Restated Certificate of Incorporation or the Bylaws of the Corporation in a manner which materially adversely affects the holders of the Series A Preferred.

b. So long as any shares of Series B Preferred remain outstanding, the Corporation shall not, without the prior written consent of the holders of at least a majority of the number of shares of the Series B Preferred then outstanding (voting as a single class), take any action that:

(i) Alters or changes the rights, preferences or privileges of the Series B Preferred so as to materially and adversely affect such shares;

(ii) Increases or decreases the number of authorized shares of Series B Preferred;

(iii) Authorizes the issuance of securities having a preference over or on a parity with the Series B Preferred; or

(iv) Amends this Third Amended and Restated Certificate of Incorporation or the Bylaws of the Corporation in a manner which materially adversely affects the holders of the Series B Preferred.

c. So long as any shares of Preferred Stock remain outstanding, the Corporation shall not, without the prior written consent of the holders of at least a majority of the then outstanding shares of the Preferred Stock (voting together as a single class with the holder of each share of the Preferred Stock being entitled to the number of votes equal to the number of shares of Common Stock into which such share of Preferred Stock could be converted), take any action that:

(i) Effects a Sale Event or effects a transaction that results (other than through redemption of the Preferred Stock) in the holders of the Corporation's capital stock immediately prior to such transaction holding less than 50% of the voting power of the Corporation's capital stock after such transaction; or

(ii) Changes the number of directors comprising the Board of Directors.

7. No Reissuance of Preferred Stock. No share or shares of Preferred Stock acquired by the Corporation by reason of redemption, purchase, conversion or otherwise shall be reissued, and all such shares shall be cancelled, retired and eliminated from the shares which the Corporation shall be authorized to issue.

8. Financial Information Reporting. So long as a holder of Preferred Stock continues to hold at least 500,000 shares of Preferred Stock or Common Stock issued upon conversion of Preferred Stock, the Corporation will deliver to such holder annual, quarterly and

monthly financial statements as well as an annual budget. The obligation of the Corporation to furnish such information will terminate (i) at such time as the Corporation (A) consummates an IPO or (B) becomes subject to the reporting provisions of the Securities Exchange Act of 1934, as amended, or (ii) upon the closing of a Sale Event.

ARTICLE V

Except as otherwise provided in this Third Amended and Restated Certificate of Incorporation, 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 (subject to compliance with any provisions of such Bylaws then in effect and applicable to any such action).

ARTICLE VI

The number of directors comprising the Board of Directors of the Corporation (the "Board of Directors") shall be fixed from time to time by a bylaw or amendment thereof duly adopted by the Board of Directors or by the stockholders.

ARTICLE VII

Elections of directors need not be by written ballot unless the Bylaws of the Corporation shall so provide.

ARTICLE VIII

Meetings of stockholders may be held within or without the State of Delaware, as the Bylaws may provide. The books of the Corporation may be kept (subject to any provision contained in the statutes) outside the State of Delaware 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.

ARTICLE IX

A director of the Corporation shall, to the fullest extent permitted by the Delaware General Corporation Law as it now exists or as it may hereafter be amended, not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the Delaware General Corporation Law, or (iv) for any transaction from which the director derived any improper personal benefit. If the General Corporation Law is amended, after approval by the stockholders of this NINTH Article, to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the Delaware General Corporation Law, as so amended.

Any amendment, repeal or modification of this NINTH Article, or the adoption of any provision of this Third Amended and Restated Certificate of Incorporation inconsistent with

this NINTH Article, by the stockholders of the Corporation shall not apply to or adversely affect any right or protection of a director of the Corporation existing at the time of such amendment, repeal, modification or adoption

ARTICLE X

The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Third Amended and Restated Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

ARTICLE XI

To the fullest extent permitted by applicable law, the Corporation is authorized to provide indemnification of (and advancement of expenses to) agents of the Corporation (and any other persons to which Delaware General Corporation Law permits the Corporation to provide indemnification) through Bylaw provisions, 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 Section 145 of the Delaware General Corporation Law, subject only to limits created by applicable General Corporation Law (statutory or non-statutory), with respect to actions for breach of duty to the Corporation, its stockholders, and others.

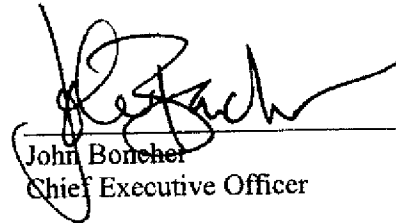
Any amendment, repeal or modification of the foregoing provisions of this ELEVENTH Article shall not adversely affect any right or protection of a director, officer, agent, or other person existing at the time of, or increase the liability of any director of the Corporation with respect to any acts or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

* * *

6. This Third Amended and Restated Certificate of Incorporation has been duly approved by the Board of Directors.

7. The Corporation has received payment for its stock and this Third Amended and Restated Certificate of Incorporation has been duly adopted in accordance with the provisions of Sections 242 and 245 of the Delaware General Corporation Law.

IN WITNESS WHEREOF, this Third Amended and Restated Certificate has been subscribed this 27 day of June 2010 by the undersigned, who affirms that the statements made herein are true and correct.



John Boncher
Chief Executive Officer


**STATE OF DELAWARE
CERTIFICATE OF CHANGE
OF REGISTERED AGENT AND/OR
REGISTERED OFFICE**

The Board of Directors of CUPERTINO ELECTRIC, INC.,
a Delaware Corporation, on this 18th day of
August, A.D. 2010, do hereby resolve and order that the
location of the Registered Office of this Corporation within this State be, and the
same hereby is Corporation Trust Center
1209 Orange Street, in the City of Wilmington,
County of New Castle Zip Code 19801.

The name of the Registered Agent therein and in charge thereof upon whom
process against this Corporation may be served, is THE CORPORATION TRUST COMPANY.

The Corporation does hereby certify that the foregoing is a true copy of a
resolution adopted by the Board of Directors at a meeting held as herein stated.

IN WITNESS WHEREOF, said Corporation has caused this certificate to be
signed by an authorized officer, the 25th day of August,
A.D., 2010.

By: 
Authorized Officer

Name: Jan Kang
Print or Type

Title: Secretary

**FIRST AMENDMENT
TO
THIRD AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
CUPERTINO ELECTRIC, INC.**

John Boncher hereby certifies that:

1. He is the duly elected and acting Chief Executive Officer of Cupertino Electric, Inc., a Delaware corporation (the "Corporation").
2. The date of the filing of the original Certificate of Incorporation of the Corporation with the Secretary of State of the State of Delaware is May 31, 2000 under the name of Delaware Synergism, Inc.
3. The date of the filing of the Amended and Restated Certificate of Incorporation of the Corporation with the Secretary of State of the State of Delaware is October 13, 2000 under the name of Cupertino Electric, Inc.
4. The date of the filing of the Second Amended and Restated Certificate of Incorporation of the Corporation with the Secretary of State of the State of Delaware is June 20, 2007 under the name of Cupertino Electric, Inc.
5. The date of filing of the Third Amended and Restated Certificate of Incorporation of the Corporation with the Secretary of State of the State of Delaware is June 24, 2010 under the name of Cupertino Electric, Inc.
6. Article IV, Section D.1 of the Third Amended and Restated Certificate of Incorporation of the Corporation is hereby amended and restated to read as follows:

1. Dividends.

- a. The holders of the Series A Preferred shall be entitled to receive dividends, in preference to the holders of Series B Preferred and the holders of Common Stock, accruing at the rate of nine percent (9%) per annum on the Series A Purchase Price (as defined below) 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) payable to the extent permitted under the Corporation's senior credit facility and otherwise from legally available funds in cash. Such dividends shall be cumulative and shall accrue on each share of Series A Preferred from the date of issuance of such share, whether or

not declared, and shall be payable on each Series A Dividend Payment Date (as defined below) occurring after the date of issuance of such share and also (i) on the date of any Series A Payment (as defined in Section IV.D.2.a hereof) on such share, (ii) by the issuance of additional shares of Common Stock in respect of the accrued and unpaid dividends upon the conversion of such share into Common Stock as provided in Section IV.D.5 hereof, (iii) on the date of any redemption of such share as provided in Section IV.D.3.b or c hereof and (iv) on the date of any payment of any dividend or distribution on the Series B Preferred or on the Common Stock otherwise permitted hereunder. Such dividends will be computed on the basis of actual days elapsed in a 365-day year. Such dividends shall be cumulative so that, if such dividends accrued as provided above and payable as of any date of determination have not been paid in full, the cumulative deficiency shall first be fully paid before any dividend or other distribution shall be declared and set apart or paid for the Series B Preferred or for the Common Stock. Any accumulation of dividends on the Series A Preferred shall not bear interest. The original issue price of the Series A Preferred shall be one dollar and eighty-five cents (\$1.85) per share (the "Series A Purchase Price"). "Series A Dividend Payment Date" shall mean the first day of each of January, April, July and October occurring after July 1, 2007, the first such Series A Dividend Payment Date being October 1, 2007.

b. Subject to payment having been made to the holders of the Series A Preferred of the full amounts to which they shall be entitled pursuant to Section IV.D.1.a above, the holders of the Series B Preferred shall be entitled to receive dividends, in preference to the holders of Common Stock, accruing over any Series B Dividend Accrual Period (as defined below) at the Applicable Rate (as defined below) for such Series B Dividend Accrual Period multiplied by the Series B Purchase Price (as defined below) on each outstanding share of Series B Preferred (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares) payable to the extent permitted under the Corporation's senior credit facility and otherwise from legally available funds in cash (subject to the penultimate sentence of this Section D.1.b). Such dividends shall be cumulative and shall accrue on each share of Series B Preferred from the date of issuance of such share, whether or not declared, and shall be payable on each Series B Dividend Payment Date (as defined below) occurring after the date of issuance of such share and also (i) on the date of any Series B Payment (as defined in Section IV.D.2.b hereof) on such share, (ii) by the issuance of additional shares of Common Stock in respect of the accrued and unpaid dividends upon the conversion of such share into Common Stock as provided in Section IV.D.5 hereof, (iii) on the date of any redemption of such share as provided in Section IV.D.3.a hereof and (iv) on the date of any payment of any dividend or distribution on the Common Stock otherwise permitted hereunder. Such dividends will be computed on the basis of actual days elapsed in a 365-day year. Such dividends shall be cumulative so that, if such dividends accrued as provided above and payable as of any date of determination have not been paid in full, the cumulative deficiency shall first be fully paid before any dividend or other distribution shall be declared and set apart or paid for the Common Stock. Any accumulation of dividends on the Series B Preferred shall not bear interest. The original issue price of the Series B Preferred shall be one dollar and sixty-eight cents (\$1.68) per share (the "Series B Purchase Price"). "Series B Dividend Payment Date" shall mean the first day of each of January, April, July and October occurring after July 1, 2010, the first such Series B Dividend Payment Date being October 1, 2010. "Series B Dividend Accrual Period" shall mean each period of three consecutive calendar months

ending on the date immediately before a Series B Dividend Payment Date. The "Applicable Rate" in effect for any Series B Dividend Accrual Period shall be the rate per annum equal to the sum of (i) the WSJ Prime Rate (as defined below) on the tenth (10th) Business Day before the last Business Day occurring within such Series B Dividend Accrual Period, as determined by the Board of Directors, plus (ii) one percent (1%). The "WSJ Prime Rate" shall mean, on any date of determination, a rate per annum equal to the rate indicated as the latest United States prime rate in the Money Rates section (or its successor) of the edition of *The Wall Street Journal* published on such date of determination (or, if *The Wall Street Journal* is not published or does not indicate such a rate on such date of determination, on the most recent prior date on which *The Wall Street Journal* was published or indicated such a rate); provided, however, that if as of any date of determination such a rate shall have ceased regularly to be determinable from *The Wall Street Journal*, the "WSJ Prime Rate" shall mean such rate per annum as the Board of Directors determines to comprise a rate that reasonably represents prevailing prime rates quoted by major commercial banks as of such date of determination. "Business Day" shall mean any day other than a Saturday, Sunday or other day on which commercial banks are closed or authorized to be closed in California. Notwithstanding the foregoing provisions of the Section D.1.b, subject to such notice and execution and delivery of such documentation as the Board of Directors shall require, any holder of Series B Preferred may elect to receive, in lieu of cash otherwise payable hereunder for any dividend accrued on the Series B Preferred of such holder and payable on any Series B Dividend Payment Date or other date on which dividends on the Series B Preferred are payable hereunder (without regard to the requirement, otherwise applicable to payment such dividend in cash, that the Corporation have legally available funds for such cash payment), additional shares of Series B Preferred, the date of issuance of which shall be such Series B Dividend Payment Date (or other such date on which dividends on the Series B Preferred are payable hereunder) and the number of shares of which shall be (rounding up to the nearest whole number of shares in case such number would otherwise include a fractional share) equal to the sum of (x) the amount of such cash divided by (y) the Series B Purchase Price (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to the Series B Preferred). Notwithstanding any provision to the contrary, any dividend paid in additional shares of Series B Preferred pursuant to the immediately preceding sentence of this Section D.1.b shall not be taken into account in making any adjustment for stock dividends, combinations, splits, recapitalizations and the like with respect to the Series B Preferred provided for in this Third Amended and Restated Certificate of Incorporation.

c. If the aggregate amount of cash paid on the date of any payment of dividends on a series of the Preferred Stock shall be insufficient to permit the payment in full of all dividends then accrued and payable in cash as provided in this Section IV.D.1 on all shares of such series of Preferred Stock, then the amount of cash so paid shall be distributed (i) in the case of any such payment to the holders of the Series A Preferred, ratably among the holders of the Series A Preferred in proportion to the respective numbers of shares of Series A Preferred then held by such holders and (ii) in the case of any such payment to the holders of the Series B Preferred (but in any event only after and subject to payment having been made to the holders of the Series A Preferred of the full amounts to which they shall then be entitled pursuant to Section IV.D.1.a above), ratably among the holders of the Series B Preferred in proportion to the respective numbers of shares of Series B Preferred then held by such holders.

d. In the event the Corporation shall declare a distribution on Common Stock payable in securities of other persons, evidences of indebtedness issued by the Corporation or other persons, assets (excluding cash dividends) or options or rights to purchase any such securities or evidences of indebtedness, then, in each such case, the holders of the Preferred Stock shall be entitled to a proportionate share of any such distribution as though the holders of the Preferred Stock were the holders of the number of shares of Common Stock into which their respective shares of Preferred Stock are convertible as of the record date fixed for the determination of the holders of Common Stock entitled to receive such distribution.

e. In the event the Corporation is unable to pay any dividend (excluding any dividend on the Series B Preferred paid in additional shares of Series B Preferred) when due and payable on any shares of Preferred Stock, the Corporation will pay to the holder of such share, to the extent that such payment is permitted under the Corporation's senior credit facility and can otherwise be made from legally available funds, on such date, if any, on which the holder of such share is obligated to pay taxes on imputed income arising on account of such unpaid dividend otherwise due and payable, an amount (a "Tax Advance Amount") equal to the amount of such taxes that such holder has reasonably determined that such holder is so obligated to pay, as certified by such holder to the Corporation. Any Tax Advance Amount paid on account of an unpaid dividend otherwise due and payable shall be credited against and deducted from the amount of such dividend thereafter remaining payable.

7. Article IV, Section D.3.b(i) of the Third Amended and Restated Certificate of Incorporation of the Corporation is hereby amended and restated to read as follows:

(i) After the first date (the "Series A-1 Redemption Eligibility Date") as of which both (A) the initial issuance of the Series B Preferred shall have occurred and (B) there shall no longer be issued and outstanding any shares of Series B Preferred (other than Management Series B Preferred Shares, as defined in the Second Amended and Restated Stockholders Agreement dated as of June 24, 2010 among the Corporation and the stockholders parties thereto), any holder of outstanding Series A-1 Preferred may require the Corporation to redeem such holder's shares of Series A-1 Preferred to the extent permitted under the Corporation's senior credit facility and otherwise from funds legally available for distribution, at a price per share equal to the Series A-1 Redemption Price (as defined in and determined pursuant to paragraph b(iii) below) payable for such shares, provided, however, that all holders of Series A-1 Preferred shall be given notice of any such requested redemption and the opportunity to participate therein on a pari passu basis pursuant to the terms of paragraph b(v) below and such redemptions shall otherwise be made on and subject to the terms of this Section IV.D.3.b and this Third Amended and Restated Certificate of Incorporation.

8. Article IV, Section D.3.c(i) of the Third Amended and Restated Certificate of Incorporation of the Corporation is hereby amended and restated to read as follows:

(i) After the first date (the "Series A-2 Redemption Eligibility Date") as of which both (A)(1) the initial issuance of the Series B Preferred shall have occurred and (2) there shall no longer be issued and outstanding any shares of Series B Preferred (other than Management Series B Preferred Shares, as defined in the Second Amended and Restated Stockholders Agreement dated as of June 24, 2010 among the Corporation and the stockholders parties thereto) and (B) there shall no longer be issued and outstanding any shares of Series A-1 Preferred, any holder of outstanding Series A-2 Preferred may require the Corporation to redeem such holder's shares of Series A-2 Preferred to the extent permitted under the Corporation's senior credit facility and otherwise from funds legally available for distribution, at a price per share equal to the Series A-2 Redemption Price (as defined in and determined pursuant to paragraph c(iii) below) payable for such shares, provided, however, that all holders of Series A-2 Preferred shall be given notice of any such requested redemption and the opportunity to participate therein on a pari passu basis pursuant to the terms of paragraph c(v) below and such redemptions shall otherwise be made on and subject to the terms of this Section IV.D.3.c and this Third Amended and Restated Certificate of Incorporation.

* * *

9. This First Amendment to Third Amended and Restated Certificate of Incorporation has been duly approved by the Board of Directors.

10. The Corporation has received payment for its stock and this First Amendment to Third Amended and Restated Certificate of Incorporation has been duly adopted in accordance with the provisions of Sections 242 and 245 of the Delaware General Corporation Law.

IN WITNESS WHEREOF, this First Amendment to Third Amended and Restated Certificate has been subscribed this 1st day of October 2010 by the undersigned, who affirms that the statements made herein are true and correct.

/s/ JOHN BONCHER

John Boncher

Chief Executive Officer

**CERTIFICATE OF OWNERSHIP AND MERGER
MERCING
MATRIX CONSTRUCTION MANAGEMENT, INC.
(Subsidiary Corporation)
WITH AND INTO
CUPERTINO ELECTRIC, INC.
(Parent Corporation)**

Cupertino Electric, Inc., a corporation incorporated on the 31st day of May, 2000 pursuant to the provisions of the Delaware General Corporation Law ("Parent Corporation"),

Does hereby certify:

1. That Parent Corporation owns all of the outstanding shares of capital stock of Matrix Construction Management, Inc., a corporation incorporated on the 23rd day of July, 2004 pursuant to the provisions of the California General Corporation Law (the "Subsidiary Corporation").
2. That Parent Corporation, by the following resolutions of its Board of Directors, duly adopted on September 28, 2011, determined to merge the Subsidiary Corporation into itself.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of Parent Corporation hereby authorizes and approves the merger of the Subsidiary Corporation with and into Parent Corporation and the assumption by Parent Corporation of all of the obligations of the Subsidiary Corporation pursuant to Section 253 of the Delaware General Corporation Law and Section 1110 of the California General Corporation Law; and

FURTHER RESOLVED, that the officers of Parent Corporation are authorized and directed to execute and deliver the documents and certificates that are required or permitted under the applicable provisions of the Delaware General Corporation Law and the California General Corporation Law to effect the merger.

[Signature on following page]

IN WITNESS WHEREOF, Cupertino Electric, Inc. has caused this Certificate of Ownership and Merger to be signed by a duly authorized officer this 29th day of September, 2011.

CUPERTINO ELECTRIC, INC.

By: 

John Boncher
President and Chief Executive Officer

**SECOND AMENDMENT
TO
THIRD AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
CUPERTINO ELECTRIC, INC.**

John Boncher hereby certifies that:

1. He is the duly elected and acting Chief Executive Officer of Cupertino Electric, Inc., a Delaware corporation (the "Corporation").

2. The date of the filing of the original Certificate of Incorporation of the Corporation with the Secretary of State of the State of Delaware is May 31, 2000 under the name of Delaware Synergism, Inc.

3. The date of the filing of the Amended and Restated Certificate of Incorporation of the Corporation with the Secretary of State of the State of Delaware is October 13, 2000 under the name of Cupertino Electric, Inc.

4. The date of the filing of the Second Amended and Restated Certificate of Incorporation of the Corporation with the Secretary of State of the State of Delaware is June 20, 2007 under the name of Cupertino Electric, Inc.

5. The date of filing of the Third Amended and Restated Certificate of Incorporation of the Corporation with the Secretary of State of the State of Delaware is June 24, 2010 under the name of Cupertino Electric, Inc.

6. The date of filing of the First Amendment to Third Amended and Restated Certificate of Incorporation of the Corporation (the "First Amendment") with the Secretary of State of the State of Delaware is October 1, 2010 under the name of Cupertino Electric, Inc.

7. The second and third sentences of Article IV, Section A of the Third Amended and Restated Certificate of Incorporation of the Corporation, as amended by the First Amendment, are hereby amended and restated to read as follows:

The total number of shares of capital stock that the Corporation is authorized to issue is one-hundred ten million six-hundred sixty-three thousand one-hundred sixty-seven (110,663,167). The total number of shares of Preferred Stock that the Corporation shall have authority to issue is thirty-five million six-hundred sixty-three thousand one-hundred sixty-seven (35,663,167).

8. Article IV, Sections B.2 and 3 of the Third Amended and Restated Certificate of Incorporation of the Corporation, as amended by the First Amendment, are hereby amended and restated to read as follows:

2. Distributions. Subject to payment having been made to the holders of the Preferred Stock (as defined below) of the full amounts to which they shall be entitled pursuant to Section IV.D.1 below, the Board of Directors (as defined in Article VI below) may cause dividends to be paid to holders of shares of Common Stock out of funds legally available for the payment of dividends. Any dividend or other distribution on the Common Stock shall be payable ratably to the holders of Common Stock, share and share alike.

3. Liquidation Rights. In the event of any dissolution, Sale Event (as defined in Section IV.D.2.d below) liquidation or winding up of the affairs of the Corporation, whether voluntary or involuntary, after payment or provision for payment of the debts and other liabilities of the Corporation, and subject to payment having been made of the full preferential amounts due to the holders of the Preferred Stock pursuant to Section IV.D.2, the remaining assets and funds of the Corporation, if any, shall be divided among and paid ratably to the holders of Common Stock, share and share alike.

9. Article IV, Section C of the Third Amended and Restated Certificate of Incorporation of the Corporation, as amended by the First Amendment, is hereby amended and restated to read as follows:

C. The Preferred Stock shall be divided into five series. The first series shall consist of seven million five-hundred thousand (7,500,000) shares of Series A-1 Preferred Stock, par value \$0.001 per share (the "Series A-1 Preferred"), the second series shall consist of seven million five-hundred thousand (7,500,000) shares of Series A-2 Preferred Stock, par value \$0.001 per share (the "Series A-2 Preferred"), the third series shall consist of thirteen million five-hundred thousand (13,500,000) shares of Series B Preferred Stock, par value \$0.001 per share (the "Series B Preferred"), the fourth series shall consist of four million two-hundred fifty thousand (4,250,000) shares of Series B-1 Preferred Stock, par value \$0.001 per share (the "Series B-1 Preferred"), and the fifth series shall consist of two million nine-hundred thirteen thousand one-hundred sixty-seven (2,913,167) shares of Series C Preferred Stock, par value \$0.001 per share (the "Series C Preferred"). The Series A-1 Preferred and the Series A-2 Preferred are referred to collectively as the "Series A Preferred"; the Series A Preferred, the Series B Preferred, the Series B-1 Preferred and the Series C Preferred collectively comprise the "Preferred Stock".

10. Article IV, Section D.1 of the Third Amended and Restated Certificate of Incorporation of the Corporation, as amended by the First Amendment, is hereby amended and restated to read as follows:

1. Dividends.

a. The holders of the Series A Preferred shall be entitled to receive dividends, in preference to the holders of Series B Preferred and the holders of Common Stock but on a pari passu basis with dividends payable on the Series B-1 Preferred and Series C Preferred pursuant to Sections IV.D.1.c and d below, accruing at the rate of nine percent (9%) per annum on the Series A Purchase Price (as defined below) 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) payable to the extent permitted under the Corporation's senior credit facility and otherwise from legally available funds in cash. Such dividends shall be cumulative and shall accrue on each share of Series A Preferred from the date of issuance of such share, whether or not declared, and shall be payable on each Series A Dividend Payment Date (as defined below) occurring after the date of issuance of such share and also (i) on the date of any Series AB-1C Payment (as defined in Section IV.D.2.a hereof) on such share, (ii) by the issuance of additional shares of Common Stock in respect of the accrued and unpaid dividends upon the conversion of such share into Common Stock as provided in Section IV.D.5 hereof, (iii) on the date of any redemption of such share as provided in Section IV.D.3.b or c hereof and (iv) on the date of any payment of any dividend or distribution on the Series B Preferred or on the Common Stock otherwise permitted hereunder. Such dividends will be computed on the basis of actual days elapsed in a 365-day year. Such dividends shall be cumulative so that, if such dividends accrued as provided above and payable as of any date of determination have not been paid in full, the cumulative deficiency shall first be fully paid before any dividend or other distribution shall be declared and set apart or paid for the Series B Preferred or for the Common Stock. Any accumulation of dividends on the Series A Preferred shall not bear interest. The original issue price of the Series A Preferred shall be one dollar and eighty-five cents (\$1.85) per share (the "Series A Purchase Price"). "Series A Dividend Payment Date" shall mean (1) the first day of each of January, April, July and October occurring after July 1, 2007 and before December 1, 2012, the first such Series A Dividend Payment Date being October 1, 2007, and (2) the last day of each December, March, June and September occurring after November 30, 2012 unless, in the case of any such month referred to in this clause (2), the Board of Directors designates as the Series A Dividend Payment Date in such month another date between and including the 20th day of such month and the last day of such month, in which case the Series A Dividend Payment Date in such month shall be such date as so designated by the Board of Directors.

b. Subject to payment having been made to the holders of the Series A Preferred, Series B-1 Preferred and Series C Preferred of the full amounts to which they shall be entitled pursuant to Sections IV.D.1.a above and IV.D.1.c and d below, the holders of the Series B Preferred shall be entitled to receive dividends, in preference to the holders of Common Stock, accruing over any Series B Dividend Accrual Period (as defined below) at the Series B Applicable Rate (as defined below) for such Series B Dividend Accrual Period multiplied by the Series B Purchase Price (as defined below) on each outstanding share of Series B Preferred (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares) payable to the extent permitted under the Corporation's senior credit facility and otherwise from legally available funds in cash (subject to the penultimate sentence of this Section D.1.b). Such dividends shall be

cumulative and shall accrue on each share of Series B Preferred from the date of issuance of such share, whether or not declared, and shall be payable on each Series B Dividend Payment Date (as defined below) occurring after the date of issuance of such share and also (i) on the date of any Series B Payment (as defined in Section IV.D.2.b hereof) on such share, (ii) on the date of any redemption of such share as provided in Section IV.D.3.a hereof and (iii) on the date of any payment of any dividend or distribution on the Common Stock otherwise permitted hereunder. Such dividends will be computed on the basis of actual days elapsed in a 365-day year. Such dividends shall be cumulative so that, if such dividends accrued as provided above and payable as of any date of determination have not been paid in full, the cumulative deficiency shall first be fully paid before any dividend or other distribution shall be declared and set apart or paid for the Common Stock. Any accumulation of dividends on the Series B Preferred shall not bear interest. The original issue price of the Series B Preferred shall be one dollar and sixty-eight cents (\$1.68) per share (the "Series B Purchase Price"). "Series B Dividend Payment Date" shall mean (1) the first day of each of January, April, July and October occurring after July 1, 2010 and before December 1, 2012, the first such Series B Dividend Payment Date being October 1, 2010, and (2) the last day of each December, March, June and September occurring after November 30, 2012 unless, in the case of any such month referred to in this clause (2), the Board of Directors designates as the Series B Dividend Payment Date in such month another date between and including the 20th day of such month and the last day of such month, in which case the Series B Dividend Payment Date in such month shall be such date as so designated by the Board of Directors. The "Series B Dividend Accrual Period" over which the dividend payable on any Series B Dividend Payment Date occurring before December 1, 2012 shall accrue shall mean the period of three consecutive calendar months ending on the date immediately before such Series B Dividend Payment Date. The "Series B Dividend Accrual Period" over which the dividend payable on any Series B Dividend Payment Date occurring after November 30, 2012 shall accrue shall mean the period beginning on the Series B Dividend Payment Date immediately preceding such Series B Dividend Payment Date on which such dividend is payable and ending on the date immediately before such Series B Dividend Payment Date on which such dividend is payable. The "Series B Applicable Rate" in effect for any Series B Dividend Accrual Period shall be the rate per annum equal to the sum of (i) the WSJ Prime Rate (as defined below) on the tenth (10th) Business Day before the last Business Day occurring within such Series B Dividend Accrual Period, as determined by the Board of Directors, plus (ii) one percent (1%). The "WSJ Prime Rate" shall mean, on any date of determination, a rate per annum equal to the rate indicated as the latest United States prime rate in the Money Rates section (or its successor) of the edition of *The Wall Street Journal* published on such date of determination (or, if *The Wall Street Journal* is not published or does not indicate such a rate on such date of determination, on the most recent prior date on which *The Wall Street Journal* was published or indicated such a rate); provided, however, that if as of any date of determination such a rate shall have ceased regularly to be determinable from *The Wall Street Journal*, the "WSJ Prime Rate" shall mean such rate per annum as the Board of Directors determines to comprise a rate that reasonably represents prevailing prime rates quoted by major commercial banks as of such date of determination. "Business Day" shall mean any day other than a Saturday, Sunday or other day on which commercial banks are closed or authorized to be closed in California. Notwithstanding the foregoing provisions of this Section D.1.b, subject to such notice and execution and delivery

of such documentation as the Board of Directors shall require, any holder of Series B Preferred may elect to receive, in lieu of cash otherwise payable hereunder for any dividend accrued on the Series B Preferred of such holder and payable on any Series B Dividend Payment Date or other date on which dividends on the Series B Preferred are payable hereunder (without regard to the requirement, otherwise applicable to payment such dividend in cash, that the Corporation have legally available funds for such cash payment), additional shares of Series B Preferred, the date of issuance of which shall be such Series B Dividend Payment Date (or other such date on which dividends on the Series B Preferred are payable hereunder) and the number of shares of which shall be (rounding up to the nearest whole number of shares in case such number would otherwise include a fractional share) equal to the sum of (x) the amount of such cash divided by (y) the Series B Purchase Price (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to the Series B Preferred). Notwithstanding any provision to the contrary, any dividend paid in additional shares of Series B Preferred pursuant to the immediately preceding sentence of this Section D.1.b shall not be taken into account in making any adjustment for stock dividends, combinations, splits, recapitalizations and the like with respect to the Series B Preferred provided for in this Third Amended and Restated Certificate of Incorporation.

c. The holders of the Series B-1 Preferred shall be entitled to receive dividends, in preference to the holders of Series B Preferred and the holders of Common Stock but on a pari passu basis with dividends payable on the Series A Preferred and Series C Preferred pursuant to Sections IV.D.1.a above and d below, accruing over any Series B-1 Dividend Accrual Period (as defined below) at the Series B-1 Applicable Rate (as defined below) for such Series B-1 Dividend Accrual Period multiplied by the Series B-1 Purchase Price (as defined below) on each outstanding share of Series B-1 Preferred (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares) payable to the extent permitted under the Corporation's senior credit facility and otherwise from legally available funds in cash; provided, however, that the amount of any dividend payable hereunder at any time to any holder of Series B-1 Preferred shall be not less than the amount that would be payable as a dividend paid at such time on the number of shares of Common Stock into which the shares of Series B-1 Preferred of such holder could be converted at such time. Such dividends shall be cumulative and shall accrue on each share of Series B-1 Preferred from the date of issuance of such share, whether or not declared, and shall be payable on each Series B-1 Dividend Payment Date (as defined below) occurring after the date of issuance of such share and also (i) on the date of any Series AB-1C Payment (as defined in Section IV.D.2.a hereof) on such share, (ii) by the issuance of additional shares of Common Stock in respect of the accrued and unpaid dividends upon the conversion of such share into Common Stock as provided in Section IV.D.5 hereof, (iii) on the date of any redemption of such share as provided in Section IV.D.3.d hereof and (iv) on the date of any payment of any dividend or distribution on the Series B Preferred or on the Common Stock otherwise permitted hereunder. Such dividends will be computed on the basis of actual days elapsed in a 365-day year. Such dividends shall be cumulative so that, if such dividends accrued as provided above and payable as of any date of determination have not been paid in full, the cumulative deficiency shall first be fully paid before any dividend or other distribution shall be declared and set apart or paid for the Series B Preferred or for the Common Stock. Any accumulation of dividends on the Series B-1 Preferred shall not bear interest. The original issue price of the Series B-1 Preferred shall be one dollar and sixty-

eight cents (\$1.68) per share (the "Series B-1 Purchase Price"). "Series B-1 Dividend Payment Date" shall mean each date after the initial issuance of the Series B-1 Preferred shall have occurred comprising a Series A Dividend Payment Date, as defined in Section IV.D.1.a above. The "Series B-1 Dividend Accrual Period" over which the dividend payable on any Series B-1 Dividend Payment Date shall accrue shall mean the period beginning on the Series B Dividend Payment Date immediately preceding such Series B-1 Dividend Payment Date on which such dividend is payable (or, if no Series B-1 Dividend Payment Date shall yet have occurred, the date of initial issuance of the Series B-1 Preferred) and ending on the date immediately before such Series B-1 Dividend Payment Date on which such dividend is payable. The "Series B-1 Applicable Rate" in effect for any Series B-1 Dividend Accrual Period shall be the rate per annum equal to the sum of (i) the WSJ Prime Rate (as defined in Section IV.D.1.b above) on the tenth (10th) Business Day (as defined in Section IV.D.1.b above) before the last Business Day occurring within such Series B-1 Dividend Accrual Period, as determined by the Board of Directors, plus (ii) one percent (1%).

d. The holders of the Series C Preferred shall be entitled to receive dividends, in preference to the holders of Series B Preferred and the holders of Common Stock but on a pari passu basis with dividends payable on the Series A Preferred and Series B-1 Preferred pursuant to Sections IV.D.1.a and c above, accruing at the rate of seven and one-half percent (7.5%) per annum on the Series C Purchase Price (as defined below) on each outstanding share of Series C Preferred (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares) payable to the extent permitted under the Corporation's senior credit facility and otherwise from legally available funds in cash; provided, however, that the amount of any dividend payable hereunder at any time to any holder of Series C Preferred shall be not less than the amount that would be payable as a dividend paid at such time on the number of shares of Common Stock into which the shares of Series C Preferred of such holder could be converted at such time. Such dividends shall be cumulative and shall accrue on each share of Series C Preferred from the date of issuance of such share, whether or not declared, and shall be payable on each Series C Dividend Payment Date (as defined below) occurring after the date of issuance of such share and also (i) on the date of any Series AB-1C Payment (as defined in Section IV.D.2.a hereof) on such share, (ii) by the issuance of additional shares of Common Stock in respect of the accrued and unpaid dividends upon the conversion of such share into Common Stock as provided in Section IV.D.5 hereof, (iii) on the date of any redemption of such share as provided in Section IV.D.3.e hereof and (iv) on the date of any payment of any dividend or distribution on the Series B Preferred or on the Common Stock otherwise permitted hereunder. Such dividends will be computed on the basis of actual days elapsed in a 365-day year. Such dividends shall be cumulative so that, if such dividends accrued as provided above and payable as of any date of determination have not been paid in full, the cumulative deficiency shall first be fully paid before any dividend or other distribution shall be declared and set apart or paid for the Series B Preferred or for the Common Stock. Any accumulation of dividends on the Series C Preferred shall not bear interest. The original issue price of the Series C Preferred shall be one dollar and eighty-five cents (\$1.85) per share (the "Series C Purchase Price"). "Series C Dividend Payment Date" shall mean each date after the initial issuance of the Series C Preferred shall have occurred comprising a Series A Dividend Payment Date, as defined in Section IV.D.1.a above.

e. If the aggregate amount of cash paid on the date of any payment of dividends on a series of the Preferred Stock shall be insufficient to permit the payment in full of all dividends then accrued and payable in cash as provided in this Section IV.D.1 on all shares of such series of Preferred Stock, then the amount of cash so paid shall be distributed (i) in the case of any such payment to the holders of the Series A Preferred, Series B-1 Preferred and Series C Preferred, ratably among the holders of the Series A Preferred, Series B-1 Preferred and Series C Preferred (treated as a single class) in proportion to the respective numbers of shares of Series A Preferred, Series B-1 Preferred and Series C Preferred then held by such holders and (ii) in the case of any such payment to the holders of the Series B Preferred (but in any event only after and subject to payment having been made to the holders of the Series A Preferred, Series B-1 Preferred and Series C Preferred of the full amounts to which they shall then be entitled pursuant to Sections IV.D.1.a, c and d above), ratably among the holders of the Series B Preferred in proportion to the respective numbers of shares of Series B Preferred held by such holders.

f. In the event the Corporation shall declare a distribution on Common Stock payable in securities of other persons, evidences of indebtedness issued by the Corporation or other persons, assets (excluding cash dividends) or options or rights to purchase any such securities or evidences of indebtedness, then, in each such case, the holders of the Series A Preferred, Series B-1 Preferred and Series C Preferred shall be entitled to a proportionate share of any such distribution as though the holders of the Series A Preferred, Series B-1 Preferred and Series C Preferred were the holders of the number of shares of Common Stock into which their respective shares of Series A Preferred, Series B-1 Preferred and Series C Preferred are convertible as of the record date fixed for the determination of the holders of Common Stock entitled to receive such distribution.

g. In the event the Corporation is unable to pay any dividend (excluding any dividend on the Series B Preferred paid in additional shares of Series B Preferred) when due and payable on any shares of Preferred Stock, the Corporation will pay to the holder of such share, to the extent that such payment is permitted under the Corporation's senior credit facility and can otherwise be made from legally available funds, on such date, if any, on which the holder of such share is obligated to pay taxes on imputed income arising on account of such unpaid dividend otherwise due and payable, an amount (a "Tax Advance Amount") equal to the amount of such taxes that such holder has reasonably determined that such holder is so obligated to pay, as certified by such holder to the Corporation. Any Tax Advance Amount paid on account of an unpaid dividend otherwise due and payable shall be credited against and deducted from the amount of such dividend thereafter remaining payable.

11. Article IV, Section D.2 of the Third Amended and Restated Certificate of Incorporation of the Corporation, as amended by the First Amendment, is hereby amended and restated to read as follows:

2. Liquidation Preference.

a. In the event of any liquidation, Sale Event (as defined in paragraph d below), dissolution or winding up of the Corporation, whether voluntary or

involuntary, the holders of the Series A Preferred, Series B-1 Preferred and Series C Preferred shall be entitled to receive, prior and in preference to any distribution of any of the assets or surplus funds of the Corporation to the holders of the Series B Preferred or the holders of the Common Stock, by reason of their ownership thereof the amount of \$1.85 per share, in the case of the Series A Preferred and the Series C Preferred, and \$1.68 per share, in the case of the Series B-1 Preferred, (in each case as adjusted for any stock dividends, combinations or splits with respect to such shares) plus all accrued or declared but unpaid dividends to the date of such liquidation, dissolution, winding up or Sale Event, on such share for each share of Series A Preferred, Series B-1 Preferred and Series C Preferred then held by them (the "Series AB-1C Payment"); provided, however, that the amount of any Series AB-1C Payment payable under this Section IV.D.2 at any time to any holder of Series B-1 Preferred or Series C Preferred shall be not less than the amount that would be payable as a distribution paid at such time on the number of shares of Common Stock into which the shares of Series B-1 Preferred and Series C Preferred of such holder could be converted at such time. The Series A-1 Preferred, Series A-2 Preferred, Series B-1 Preferred and Series C Preferred shall rank on a parity as to the receipt of the respective preferential amounts for each such series upon the occurrence of such event. If, upon the occurrence of such event, the assets and funds available for distribution among the holders of the Series A Preferred, Series B-1 Preferred and Series C Preferred shall be insufficient to permit the payment to such holders of the full aforesaid preferential amount, then the entire amount of such assets and funds of the Corporation legally available for distribution shall be distributed ratably among the holders of the Series A Preferred, Series B-1 Preferred and Series C Preferred (treated as a single class) in proportion to the respective preferential amounts such holders are otherwise entitled to receive.

b. In the event of any liquidation, Sale Event, dissolution or winding up of the Corporation, whether voluntary or involuntary, subject to the payment in full of the liquidation preferences with respect to the Series A Preferred, Series B-1 Preferred and Series C Preferred as provided in paragraph a of this Section IV.D.2, the holders of the Series B Preferred shall be entitled to receive, prior and in preference to any distribution of any of the assets or surplus funds of the Corporation to the holders of the Common Stock, by reason of their ownership thereof the amount of \$1.68 per share (as adjusted for any stock dividends, combinations or splits with respect to such shares), plus all accrued or declared but unpaid dividends to the date of such liquidation, dissolution, winding up or Sale Event on such share for each share of Series B Preferred then held by them (the "Series B Payment"). If, upon the occurrence of such event and after the payment in full of the liquidation preferences with respect to the Series A Preferred, Series B-1 Preferred and Series C Preferred as provided in paragraph a of this Section IV.D.2, the assets and funds available for distribution among the holders of the Series B Preferred shall be insufficient to permit the payment to such holders of the full aforesaid preferential amount, then the entire amount of such assets and funds of the Corporation legally available for distribution shall be distributed ratably among the holders of the Series B Preferred in proportion to the respective preferential amounts such holders are otherwise entitled to receive.

c. In the event of any liquidation, Sale Event, dissolution or winding up of the Corporation, either voluntary or involuntary, subject to the payment in full of the liquidation preferences with respect to the Series A Preferred, Series B-1 Preferred,

Series C Preferred and Series B Preferred as provided in paragraphs a and b of this Section IV.D.2 the remaining assets and funds of the Corporation legally available for distribution shall be distributed among the holders of the Common Stock as provided in Section IV.B.3 above.

d. A "Sale Event" shall mean any of the following: (a) a sale, conveyance or other disposition of all or substantially all of the assets, property or business of the Corporation; or (b) any merger or consolidation of the Corporation with or into another person or corporation, other than (i) a merger or consolidation with a wholly-owned subsidiary of the Corporation or with another entity controlled by the same controlling shareholders of the Corporation immediately before such merger or consolidation, (ii) a merger effected exclusively to change the domicile of the Corporation, or (iii) an equity financing in which the Corporation is the surviving corporation.

e. Whenever a distribution provided for in this Section IV.D.2 shall be payable in securities or property other than cash, the value of such distribution shall be the fair market value of such securities or other property as determined in good faith by the Board of Directors.

12. Article IV, Section D.3.b(ii) of the Third Amended and Restated Certificate of Incorporation of the Corporation, as amended by the First Amendment, is hereby amended and restated to read as follows:

(ii) At any time and from time to time the Corporation may redeem all or a part of the outstanding shares of Series A-1 Preferred to the extent permitted under the Corporation's senior credit facility and otherwise from funds legally available for distribution, at a price per share equal to the Series A-1 Redemption Price (determined pursuant to paragraph b(iii) below) payable for such shares.

13. Article IV, Section D.3.c(ii) of the Third Amended and Restated Certificate of Incorporation of the Corporation, as amended by the First Amendment, is hereby amended and restated to read as follows:

(ii) At any time and from time to time the Corporation may redeem all or a part of the outstanding shares of Series A-2 Preferred to the extent permitted under the Corporation's senior credit facility and otherwise from funds legally available for distribution, at a price per share equal to the Series A-2 Redemption Price (determined pursuant to paragraph c(iii) below) payable for such shares.

14. Article IV, Section D.3 of the Third Amended and Restated Certificate of Incorporation of the Corporation, as amended by the First Amendment, is amended by the addition of subsection d and e thereto, to read as follows:

d. Series B-1 Preferred.

(i) After the first date (the "Series B-1 Redemption Eligibility Date") as of which (A) there shall no longer be issued and outstanding any shares of Series B Preferred and (B) there shall no longer be issued and outstanding any

shares of Series A Preferred, any holder of outstanding Series B-1 Preferred may require the Corporation to redeem such holder's shares of Series B-1 Preferred to the extent permitted under the Corporation's senior credit facility and otherwise from funds legally available for distribution, at a price per share equal to the Series B-1 Redemption Price (as defined in and determined pursuant to paragraph d(iii) below) payable for such shares, provided, however, that all holders of Series B-1 Preferred shall be given notice of any such requested redemption and the opportunity to participate therein on a pari passu basis pursuant to the terms of paragraph d(v) below and such redemptions shall otherwise be made on and subject to the terms of this Section IV.D.3. and this Third Amended and Restated Certificate of Incorporation.

(ii) At any time and from time to time after the Series B-1 Redemption Eligibility Date the Corporation may redeem all or a part of the outstanding shares of Series B-1 Preferred to the extent permitted under the Corporation's senior credit facility and otherwise from funds legally available for distribution, at a price per share equal to the Series B-1 Redemption Price (determined pursuant to paragraph d(iii) below) payable for such shares.

(iii) The "Series B-1 Redemption Price" payable for any share in any redemption of the Series B-1 Preferred pursuant to paragraph d(i) or d(ii) above shall be the Series B-1 Purchase Price (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to the Series B-1 Preferred) plus any unpaid dividends accrued on such share of Series B-1 Preferred through the Series B-1 Holder Redemption Date (as defined in paragraph d(vi) below) or Series B-1 Corporation Redemption Date (as defined in paragraph d(vii) below), as the case may be, on which redemption of such share occurs.

(iv) Any redemption of the Series B-1 Preferred pursuant to paragraph d(i) above (each a "Series B-1 Holder Redemption") shall occur only if the Series B-1 Redemption Eligibility Date shall have occurred and shall occur only during a Holder Redemption Period (as defined in Section IV.D.3.a(iv) above). The aggregate number of shares of Series B-1 Preferred to be redeemed in any Series B-1 Holder Redemption shall be not more than one-million three-hundred-fifty-thousand (1,350,000) shares (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to the Series B-1 Preferred).

(v) If any holder of Series B-1 Preferred elects to exercise such holder's option to cause the Corporation to redeem shares of Series B-1 Preferred in a Series B-1 Holder Redemption pursuant to paragraph d(i) above, such holder must, not earlier than ninety (90) days or later than thirty (30) days before the first day of the Holder Redemption Period in which such holder desires such Series B-1 Holder Redemption to occur, deliver written notice (a "Series B-1 Initiation Notice") of such election, specifying the Holder Redemption Period in which such holder desires such Series B-1 Holder Redemption to occur, to the Corporation and the Corporation shall promptly deliver a copy of such Series B-1 Initiation Notice to all other holders of Series B-1 Preferred. Any other holder (a "Tag Along Series B-1 Holder") may elect to have shares of Series B-1 Preferred held by such Tag Along Series B-1 Holder redeemed simultaneously by the Corporation in

such Series B-1 Holder Redemption along with the shares of Series B-1 Preferred of the holder delivering such Series B-1 Initiation Notice by delivering to the Corporation, within ten (10) days of delivery to such Tag Along Series B-1 Holder of such Series B-1 Initiation Notice, a written notice (collectively with a Series B-1 Initiation Notice being a "Series B-1 Holder Redemption Notice") of such Tag Along Series B-1 Holder's election to participate in the requested Series B-1 Holder Redemption and the Corporation shall promptly deliver a copy of such Series B-1 Holder Redemption Notice to all other holders of Series B-1 Preferred. Each Series B-1 Holder Redemption Notice shall either (A) specify the number of shares of Series B-1 Preferred that the holder delivering such Series B-1 Holder Redemption Notice seeks to have redeemed pursuant thereto or (B) indicate the holder seeks to have the maximum number of his, her or its shares of Series B-1 Preferred redeemed pursuant thereto. In the event that the aggregate number of shares of Series B-1 Preferred whose redemption is sought pursuant to all Series B-1 Holder Redemption Notices delivered in respect of any Series B-1 Holder Redemption exceeds either (1) one-million three-hundred-fifty-thousand (1,350,000) shares (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to the Series B-1 Preferred) or (2) such number of shares for whose redemption the Corporation has sufficient funds legally available and available under the terms of the Corporation's senior credit facility, then the Corporation shall redeem in such Series B-1 Holder Redemption only the lesser of (x) one-million three-hundred-fifty-thousand (1,350,000) shares (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to the Series B-1 Preferred) and (y) such number as can be redeemed to the extent of funds legally available and available under the terms of its senior credit facility, and shall so redeem shares of Series B-1 Preferred ratably from the holders seeking redemption in such Series B-1 Holder Redemption (rounding down to the nearest whole number of shares in the case of any holder whose such ratable number of shares would otherwise include a fractional share) based on the relative numbers of outstanding shares of Series B-1 Preferred held, at the time of their respective deliveries of Series B-1 Holder Redemption Notices to the Corporation, by the respective holders delivering Series B-1 Holder Redemption Notices in respect of such Series B-1 Holder Redemption as provided above.

(vi) Redemptions of shares of Series B-1 Preferred in any Series B-1 Holder Redemption shall occur on one or more dates as designated by the Board of Directors (each being a "Series B-1 Holder Redemption Date") occurring within the Holder Redemption Period for such Series B-1 Holder Redemption. The number of shares of Series B-1 Preferred to be redeemed on any Series B-1 Holder Redemption Date for a Series B-1 Holder Redemption shall be such number as the Board of Directors shall designate; provided, however, that the aggregate number of shares of Series B-1 Preferred designated for redemption on all Series B-1 Holder Redemption Dates for a Series B-1 Holder Redemption shall equal the aggregate number of shares redeemable in such Series B-1 Holder Redemption determined pursuant to paragraph d(v) above; provided further, however, that the shares of Series B-1 Preferred to be redeemed on any Series B-1 Holder Redemption Date for a Series B-1 Holder Redemption shall be redeemed ratably from the holders of the shares of Series B-1 Preferred redeemable in such Series B-1 Holder Redemption (rounding down to the nearest whole number of shares in the case of any holder whose such ratable number of shares would otherwise include a fractional share) based on the relative numbers of such shares held by such holders. In the case of any Series B-1 Holder

Redemption, not later than ten (10) days before the first day of the Holder Redemption Period for such Series B-1 Holder Redemption, the Corporation shall deliver, to each holder delivering a Series B-1 Holder Redemption Notice in respect of such Series B-1 Holder Redemption as provided in paragraph d(v) above, a notice (a "Series B-1 Holder Redemption Confirmation") specifying (A) the aggregate number of shares of Series B-1 Preferred to be redeemed in such Series B-1 Holder Redemption, (B) the date or dates designated by the Board of Directors as Series B-1 Holder Redemption Dates for such Series B-1 Holder Redemption, (C) the aggregate number of shares of Series B-1 Preferred to be redeemed on each such Series B-1 Holder Redemption Date and (D) the number of shares of Series B-1 Preferred of such holder to be redeemed on each such Series B-1 Holder Redemption Date (determined as specified in the second proviso of the second sentence of this paragraph d(vi)).

(vii) If the Corporation elects to redeem shares of Series B-1 Preferred pursuant to paragraph d(ii) above, the Corporation must deliver written notice of such election to all holders of the Series B-1 Preferred (a "Series B-1 Corporation Redemption Notice"). Each Series B-1 Corporation Redemption Notice shall specify the aggregate number of shares of Series B-1 Preferred to be redeemed (or, in the case of a Series B-1 Corporation Redemption Notice pertaining to a redemption of all such outstanding shares, that all such outstanding shares are to be so redeemed) pursuant thereto, in each case subject, however, to the provisions of paragraph d(viii) below. Redemptions of shares of Series B-1 Preferred called for in a Series B-1 Corporation Redemption Notice shall be made by the Corporation on the date (a "Series B-1 Corporation Redemption Date") that is the 30th day (or the first Business Day thereafter if such 30th day is not a Business Day) after the date on which the Corporation dispatches such Series B-1 Corporation Redemption Notice.

(viii) In the case of any redemption at the Corporation's option pursuant to paragraph d(ii) above of less than all of the shares of the Series B-1 Preferred, the Corporation shall redeem the shares of the holders of the Series B-1 Preferred ratably (rounding down to the nearest whole number of shares in the case of any holder whose such ratable number of shares would otherwise include a fractional share) based on the relative numbers of outstanding shares of Series B-1 Preferred held by the respective holders immediately prior to such redemption. In the case of any redemption at the Corporation's option pursuant to paragraph d(ii) above, if the Corporation does not have sufficient funds legally available and available under the terms of the Corporation's senior credit facility to redeem all of the shares of Series B-1 Preferred so to be redeemed on any Series B-1 Corporation Redemption Date, then the Corporation shall redeem on such Series B-1 Corporation Redemption Date only such shares as can be redeemed to the extent of funds legally available and available under the terms of its senior credit facility, and shall so redeem shares of the holders of the Series B-1 Preferred ratably (rounding down to the nearest whole number of shares in the case of any holder whose such ratable number of shares would otherwise include a fractional share) based on the relative numbers of outstanding shares of Series B-1 Preferred held by the respective holders immediately prior to such redemption.

(ix) Each holder of shares of Series B-1 Preferred to be redeemed on a Series B-1 Holder Redemption Date or Series B-1 Corporation Redemption Date, as the case may be, will be required to present and surrender a certificate or

certificates representing at least the number of such shares of Series B-1 Preferred of such holder to be redeemed on such Series B-1 Holder Redemption Date or Series B-1 Corporation Redemption Date, as the case may be, (duly endorsed for transfer) to the Corporation at the principal executive offices of the Corporation. Subject to and upon the first Business Day following such presentation and surrender (but not earlier than the Series B-1 Holder Redemption Date or Series B-1 Corporation Redemption Date, as the case may be, for redemption of the shares represented thereby) of certificates representing such shares, the Corporation shall pay an amount equal to the aggregate Series B-1 Redemption Price payable for such shares to the person whose name appears on such certificate or certificates so surrendered. If the number of shares represented by the certificate or certificates surrendered by a holder in any Series B-1 Holder Redemption or Series B-1 Corporation Redemption, as the case may be, shall exceed the number of shares of such holder to be redeemed in such redemption, the Corporation shall issue and deliver to the person entitled thereto a certificate or certificates representing the unredeemed balance of such shares.

(x) From and after each Series B-1 Holder Redemption Date or Series B-1 Corporation Redemption Date, as the case may be, all dividends shall cease to accrue with respect to the shares redeemed on such date pursuant to this Section IV.D.3.d, and all rights arising from such shares of the holders of any shares redeemed on such date as stockholders of the Corporation, except the right to receive the applicable Series B-1 Redemption Price payable therefor, shall cease and terminate; provided, however, that in the event that the Corporation fails to pay the Series B-1 Redemption Price payable for any shares to be redeemed pursuant to this Section IV.D.3.d on or before the first Business Day following surrender of the certificate or certificates representing such shares as provided in paragraph d(ix) above, the Corporation shall also pay to the person entitled to payment of such Series B-1 Redemption Price interest on the amount of such Series B-1 Redemption Price so payable, accruing (on the basis of actual days elapsed in a 365-day year) at a rate per annum equal to the Applicable Series B-1 Redemption Rate from and including such first Business Day on which such amount became so payable (being a "Series B-1 Redemption Payment Due Date") to and excluding the date on which such amount is paid. The "Applicable Series B-1 Redemption Rate", in the case of any interest accruing from a Series B-1 Redemption Payment Due Date pursuant to the preceding sentence, shall mean the rate per annum equal to the sum of (A) the WSJ Prime Rate (as defined in Section IV.D.1.b above) on such Series B-1 Redemption Payment Due Date, determined as specified in Section IV.D.1.b above, plus (B) one percent (1%).

(xi) All Series B-1 Holder Redemption Notices, Series B-1 Holder Redemption Confirmations and Series B-1 Corporation Redemption Notices hereunder shall be in writing and shall be deemed effectively given and delivered: (1) upon personal delivery to the party to be notified; (2) five days after having been sent by registered or certified mail, return receipt requested, postage prepaid; (3) upon confirmation of successful electronic transmission via email or facsimile to the party to be notified (or if such confirmation occurs after regular business hours, then upon commencement of the next business day); or (4) one day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All Series B-1 Holder Redemption Notices to the Corporation shall be sent to the address of its corporate headquarters. All Series B-1 Holder Redemption Notices, Series B-1 Holder Redemption

Confirmations and Series B-1 Corporation Redemption Notices to any stockholder shall be sent to the address of such stockholder in the Corporation's books and records.

e. Series C Preferred.

(i) After the first date (the "Series C Redemption Eligibility Date") as of which (A) there shall no longer be issued and outstanding any shares of Series B Preferred, (B) there shall no longer be issued and outstanding any shares of Series A Preferred and (C) there shall no longer be issued and outstanding any shares of Series B-1 Preferred, any holder of outstanding Series C Preferred may require the Corporation to redeem such holder's shares of Series C Preferred to the extent permitted under the Corporation's senior credit facility and otherwise from funds legally available for distribution, at a price per share equal to the Series C Redemption Price (as defined in and determined pursuant to paragraph e(iii) below) payable for such shares, provided, however, that all holders of Series C Preferred shall be given notice of any such requested redemption and the opportunity to participate therein on a pari passu basis pursuant to the terms of paragraph e(v) below and such redemptions shall otherwise be made on and subject to the terms of this Section IV.D.3. and this Third Amended and Restated Certificate of Incorporation.

(ii) At any time and from time to time after the Series C Redemption Eligibility Date the Corporation may redeem all or a part of the outstanding shares of Series C Preferred to the extent permitted under the Corporation's senior credit facility and otherwise from funds legally available for distribution, at a price per share equal to the Series C Redemption Price (determined pursuant to paragraph e(iii) below) payable for such shares.

(iii) The "Series C Redemption Price" payable for any share in any redemption of the Series C Preferred pursuant to paragraph e(i) or e(ii) above shall be the Series C Purchase Price (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to the Series C Preferred) plus any unpaid dividends accrued on such share of Series C Preferred through the Series C Holder Redemption Date (as defined in paragraph e(vi) below) or Series C Corporation Redemption Date (as defined in paragraph e(vii) below), as the case may be, on which redemption of such share occurs.

(iv) Any redemption of the Series C Preferred pursuant to paragraph e(i) above (each a "Series C Holder Redemption") shall occur only if the Series C Redemption Eligibility Date shall have occurred and shall occur only during a Holder Redemption Period (as defined in Section IV.D.3. a(iv) above). The aggregate number of shares of Series C Preferred to be redeemed in any Series C Holder Redemption shall be not more than one-million three-hundred-fifty-thousand (1,350,000) shares (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to the Series C Preferred).

(v) If any holder of Series C Preferred elects to exercise such holder's option to cause the Corporation to redeem shares of Series C Preferred

in a Series C Holder Redemption pursuant to paragraph e(i) above, such holder must, not earlier than ninety (90) days or later than thirty (30) days before the first day of the Holder Redemption Period in which such holder desires such Series C Holder Redemption to occur, deliver written notice (a "Series C Initiation Notice") of such election, specifying the Holder Redemption Period in which such holder desires such Series C Holder Redemption to occur, to the Corporation and the Corporation shall promptly deliver a copy of such Series C Initiation Notice to all other holders of Series C Preferred. Any other holder (a "Tag Along Series C Holder") may elect to have shares of Series C Preferred held by such Tag Along Series C Holder redeemed simultaneously by the Corporation in such Series C Holder Redemption along with the shares of Series C Preferred of the holder delivering such Series C Initiation Notice by delivering to the Corporation, within ten (10) days of delivery to such Tag Along Series C Holder of such Series C Initiation Notice, a written notice (collectively with a Series C Initiation Notice being a "Series C Holder Redemption Notice") of such Tag Along Series C Holder's election to participate in the requested Series C Holder Redemption and the Corporation shall promptly deliver a copy of such Series C Holder Redemption Notice to all other holders of Series C Preferred. Each Series C Holder Redemption Notice shall either (A) specify the number of shares of Series C Preferred that the holder delivering such Series C Holder Redemption Notice seeks to have redeemed pursuant thereto or (B) indicate the holder seeks to have the maximum number of his, her or its shares of Series C Preferred redeemed pursuant thereto. In the event that the aggregate number of shares of Series C Preferred whose redemption is sought pursuant to all Series C Holder Redemption Notices delivered in respect of any Series C Holder Redemption exceeds either (1) one-million three-hundred-fifty-thousand (1,350,000) shares (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to the Series C Preferred) or (2) such number of shares for whose redemption the Corporation has sufficient funds legally available and available under the terms of the Corporation's senior credit facility, then the Corporation shall redeem in such Series C Holder Redemption only the lesser of (x) one-million three-hundred-fifty-thousand (1,350,000) shares (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to the Series C Preferred) and (y) such number as can be redeemed to the extent of funds legally available and available under the terms of its senior credit facility, and shall so redeem shares of Series C Preferred ratably from the holders seeking redemption in such Series C Holder Redemption (rounding down to the nearest whole number of shares in the case of any holder whose such ratable number of shares would otherwise include a fractional share) based on the relative numbers of outstanding shares of Series C Preferred held, at the time of their respective deliveries of Series C Holder Redemption Notices to the Corporation, by the respective holders delivering Series C Holder Redemption Notices in respect of such Series C Holder Redemption as provided above.

(vi) Redemptions of shares of Series C Preferred in any Series C Holder Redemption shall occur on one or more dates as designated by the Board of Directors (each being a "Series C Holder Redemption Date") occurring within the Holder Redemption Period for such Series C Holder Redemption. The number of shares of Series C Preferred to be redeemed on any Series C Holder Redemption Date for a Series C Holder Redemption shall be such number as the Board of Directors shall designate; provided, however, that the aggregate number of shares of Series C Preferred designated for redemption on all Series C Holder Redemption Dates for a Series C Holder Redemption shall equal the aggregate number of shares redeemable in such Series C Holder Redemption determined

pursuant to paragraph e(v) above; provided further, however, that the shares of Series C Preferred to be redeemed on any Series C Holder Redemption Date for a Series C Holder Redemption shall be redeemed ratably from the holders of the shares of Series C Preferred redeemable in such Series C Holder Redemption (rounding down to the nearest whole number of shares in the case of any holder whose such ratable number of shares would otherwise include a fractional share) based on the relative numbers of such shares held by such holders. In the case of any Series C Holder Redemption, not later than ten (10) days before the first day of the Holder Redemption Period for such Series C Holder Redemption, the Corporation shall deliver, to each holder delivering a Series C Holder Redemption Notice in respect of such Series C Holder Redemption as provided in paragraph e(v) above, a notice (a "Series C Holder Redemption Confirmation") specifying (A) the aggregate number of shares of Series C Preferred to be redeemed in such Series C Holder Redemption, (B) the date or dates designated by the Board of Directors as Series C Holder Redemption Dates for such Series C Holder Redemption, (C) the aggregate number of shares of Series C Preferred to be redeemed on each such Series C Holder Redemption Date and (D) the number of shares of Series C Preferred of such holder to be redeemed on each such Series C Holder Redemption Date (determined as specified in the second proviso of the second sentence of this paragraph e(vi)).

(vii) If the Corporation elects to redeem shares of Series C Preferred pursuant to paragraph e(ii) above, the Corporation must deliver written notice of such election to all holders of the Series C Preferred (a "Series C Corporation Redemption Notice"). Each Series C Corporation Redemption Notice shall specify the aggregate number of shares of Series C Preferred to be redeemed (or, in the case of a Series C Corporation Redemption Notice pertaining to a redemption of all such outstanding shares, that all such outstanding shares are to be so redeemed) pursuant thereto, in each case subject, however, to the provisions of paragraph e(viii) below. Redemptions of shares of Series C Preferred called for in a Series C Corporation Redemption Notice shall be made by the Corporation on the date (a "Series C Corporation Redemption Date") that is the 30th day (or the first Business Day thereafter if such 30th day is not a Business Day) after the date on which the Corporation dispatches such Series C Corporation Redemption Notice.

(viii) In the case of any redemption at the Corporation's option pursuant to paragraph e(ii) above of less than all of the shares of the Series C Preferred, the Corporation shall redeem the shares of the holders of the Series C Preferred ratably (rounding down to the nearest whole number of shares in the case of any holder whose such ratable number of shares would otherwise include a fractional share) based on the relative numbers of outstanding shares of Series C Preferred held by the respective holders immediately prior to such redemption. In the case of any redemption at the Corporation's option pursuant to paragraph e(ii) above, if the Corporation does not have sufficient funds legally available and available under the terms of the Corporation's senior credit facility to redeem all of the shares of Series C Preferred so to be redeemed on any Series C Corporation Redemption Date, then the Corporation shall redeem on such Series C Corporation Redemption Date only such shares as can be redeemed to the extent of funds legally available and available under the terms of its senior credit facility, and shall so redeem shares of the holders of the Series C Preferred ratably (rounding down to the nearest whole number of shares in the case of any holder whose such ratable number of shares would

otherwise include a fractional share) based on the relative numbers of outstanding shares of Series C Preferred held by the respective holders immediately prior to such redemption.

(ix) Each holder of shares of Series C Preferred to be redeemed on a Series C Holder Redemption Date or Series C Corporation Redemption Date, as the case may be, will be required to present and surrender a certificate or certificates representing at least the number of such shares of Series C Preferred of such holder to be redeemed on such Series C Holder Redemption Date or Series C Corporation Redemption Date, as the case may be, (duly endorsed for transfer) to the Corporation at the principal executive offices of the Corporation. Subject to and upon the first Business Day following such presentation and surrender (but not earlier than the Series C Holder Redemption Date or Series C Corporation Redemption Date, as the case may be, for redemption of the shares represented thereby) of certificates representing such shares, the Corporation shall pay an amount equal to the aggregate Series C Redemption Price payable for such shares to the person whose name appears on such certificate or certificates so surrendered. If the number of shares represented by the certificate or certificates surrendered by a holder in any Series C Holder Redemption or Series C Corporation Redemption, as the case may be, shall exceed the number of shares of such holder to be redeemed in such redemption, the Corporation shall issue and deliver to the person entitled thereto a certificate or certificates representing the unredeemed balance of such shares.

(x) From and after each Series C Holder Redemption Date or Series C Corporation Redemption Date, as the case may be, all dividends shall cease to accrue with respect to the shares redeemed on such date pursuant to this Section IV.D.3.e, and all rights arising from such shares of the holders of any shares redeemed on such date as stockholders of the Corporation, except the right to receive the applicable Series C Redemption Price payable therefor, shall cease and terminate; provided, however, that in the event that the Corporation fails to pay the Series C Redemption Price payable for any shares to be redeemed pursuant to this Section IV.D.3.e on or before the first Business Day following surrender of the certificate or certificates representing such shares as provided in paragraph e(ix) above, the Corporation shall also pay to the person entitled to payment of such Series C Redemption Price interest on the amount of such Series C Redemption Price so payable, accruing (on the basis of actual days elapsed in a 365-day year) at the rate of 7.5% per annum from and including such first Business Day on which such amount became so payable to and excluding the date on which such amount is paid.

(xi) All Series C Holder Redemption Notices, Series C Holder Redemption Confirmations and Series C Corporation Redemption Notices hereunder shall be in writing and shall be deemed effectively given and delivered: (1) upon personal delivery to the party to be notified; (2) five days after having been sent by registered or certified mail, return receipt requested, postage prepaid; (3) upon confirmation of successful electronic transmission via email or facsimile to the party to be notified (or if such confirmation occurs after regular business hours, then upon commencement of the next business day); or (4) one day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All Series C Holder Redemption Notices to the Corporation shall be sent to the address of its corporate headquarters. All Series C Holder Redemption Notices, Series C Holder Redemption

Confirmations and Series C Corporation Redemption Notices to any stockholder shall be sent to the address of such stockholder in the Corporation's books and records.

15. Article IV, Section D.5. of the Third Amended and Restated Certificate of Incorporation of the Corporation, as amended by the First Amendment, is hereby amended and restated to read as follows:

5. Conversion. The holders of the Series A Preferred, Series B-1 Preferred and Series C Preferred (each such series being "Convertible Preferred Stock") shall have conversion rights as follows:

a. Right to Convert. Each share of Convertible Preferred Stock shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share but prior to the date of redemption, if any, thereof, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing \$1.85, in the case of each share of Series A Preferred and Series C Preferred, and \$1.68, in the case of each share of Series B-1 Preferred, by the Applicable Conversion Price (as defined below) for the series of such share, determined as hereinafter provided, in effect on the date the certificate for such share is surrendered for conversion of such share. The price at which shares of Common Stock shall be deliverable upon conversion of shares of a particular series of the Convertible Preferred Stock (the "Applicable Conversion Price" for such series) shall initially be \$1.85 per share of Common Stock, in the case of the Series A Preferred and Series C Preferred, and \$1.68 per share of Common Stock, in the case of the Series B-1 Preferred. The Applicable Conversion Prices for the respective series of Convertible Preferred Stock shall be adjusted as hereinafter provided.

b. Automatic Conversion. Each outstanding share of Convertible Preferred Stock shall automatically be converted into shares of Common Stock at the then-effective Applicable Conversion Price for the series of such share in the event of either (x) the election of holders of a majority of the then outstanding shares of the Convertible Preferred Stock, voting together as a single class (with each holder of Convertible Preferred Stock being entitled to a number of votes equal to the number of shares of Common Stock into which the shares of Convertible Preferred Stock of such holder could be converted), or (y) the closing of an underwritten initial public offering of the Corporation's Common Stock pursuant to a registration statement under the Securities Act of 1933, as amended, with aggregate proceeds of at least \$20 million (net of underwriting discounts) (an "IPO").

c. Mechanics of Conversion.

(i) Before any holder of Convertible Preferred Stock shall be entitled to convert the same into shares of Common Stock, such holder shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Corporation or of any transfer agent for such stock, and shall give written notice to the Corporation at such office that such holder elects to convert the same. The Corporation shall, as soon as practicable thereafter, issue and deliver at such office to such holder of Convertible Preferred Stock, a certificate or certificates for the number of shares of Common Stock to which such

holder shall be entitled as aforesaid. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of surrender of the certificate or certificates for the shares of Convertible Preferred Stock to be converted, and the person or persons entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock on such date.

(ii) If the conversion is in connection with an underwritten offering of securities pursuant to the Securities Act of 1933, as amended, the conversion may, at the option of any holder tendering shares of Convertible Preferred Stock for conversion, be conditioned upon the closing with the underwriters of the sale of securities pursuant to such offering, in which event the person(s) entitled to receive the Common Stock upon conversion of each such share of Convertible Preferred Stock shall not be deemed to have converted such shares until immediately prior to the closing of such sale of securities.

d. Adjustments to Applicable Conversion Prices for Certain Diluting Issues.

(i) Special Definitions. The following definitions apply herein:

(1) "Options" shall mean rights, options, or warrants to subscribe for, purchase or otherwise acquire either Common Stock or Convertible Securities (as defined below).

(2) "Third Restated Certificate Date" shall mean the date of filing of this Third Amended and Restated Certificate of Incorporation with the Secretary of State of the State of Delaware.

(3) "Convertible Securities" shall mean any evidences of indebtedness, shares (other than Common Stock or Convertible Preferred Stock) or other securities convertible into or exchangeable for Common Stock.

(4) "Additional Shares of Common Stock" shall mean all shares of Common Stock issued (or, pursuant to Section IV.D.5.d(iii), deemed to be issued) by the Corporation after the Third Restated Certificate Date, other than shares of Common Stock issued or issuable:

(A) upon conversion of shares of Convertible Preferred Stock;

(B) to officers, directors or employees of, or consultants to, the Corporation pursuant to stock option or stock purchase plans or agreements on terms approved by the Board of Directors, in up to an aggregate amount of shares of Common Stock equal to the sum of (x) 11,123,214 shares minus (y) the number of shares of restricted Common Stock issued under the Corporation's 2009 Equity Incentive Plan prior to the Third Restated Certificate Date, (in each case as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to the Common Stock);

(C) as a dividend or distribution on Convertible Preferred Stock;

(D) to financial institutions or lessors in connection with commercial credit arrangements, equipment financings, commercial property lease transactions, or similar transactions on terms approved by the Board of Directors;

(E) pursuant to warrants, notes or other rights to acquire securities of the Corporation outstanding as of or issued on the Third Restated Certificate Date and approved by the Board of Directors;

(F) in connection with any acquisition transaction approved by the Board of Directors to which the Corporation is a party;

(G) pursuant to a public offering;

(H) pursuant to any strategic partnership transaction approved by the Board of Directors to which the Corporation is a party;

(I) pursuant to any transaction in which exemption from these anti-dilution provisions set forth in this Section IV.D.5.d is approved by the holders of a majority of the Convertible Preferred Stock outstanding at the time of such approval; or

(J) for which adjustment of the Applicable Conversion Prices is made pursuant to Section IV.D.5.e.

(ii) No Adjustment of Applicable Conversion Prices. Notwithstanding any provision herein to the contrary, no adjustment in the Applicable Conversion Price for any series shall be made in respect of the issuance of Additional Shares of Common Stock unless the consideration per share (determined pursuant to Section IV.D.5.d(v) hereof) for an Additional Share of Common Stock issued or deemed to be issued by the Corporation is less such Applicable Conversion Price in effect on the date of, and immediately prior to, such issue.

(iii) Deemed Issue of Additional Shares of Common Stock. In the event the Corporation at any time or from time to time after the Third Restated Certificate Date shall issue any Options or Convertible Securities or shall fix a record date for the determination of holders of any class of securities then entitled to receive any such Options or Convertible Securities, then the maximum number of shares (as set forth in the instrument relating thereto without regard to any provisions contained therein designed to protect against dilution) of Common Stock issuable upon the exercise of such Options or, in the case of Convertible Securities and Options therefor, the conversion or exchange of such Convertible Securities, shall be deemed to be Additional Shares of Common Stock issued as of the time of such issue or, in case such a record date shall have been fixed, as of the close of business on such record date, provided that in any such case in which Additional Shares of Common Stock are deemed to be issued:

(1) no further adjustments in the Applicable Conversion Price for any series shall be made upon the subsequent issue of Convertible Securities or shares of Common Stock upon the exercise of such Options or conversion or exchange of such Convertible Securities;

(2) if such Options or Convertible Securities by their terms provide, with the passage of time or otherwise, for any increase in the consideration payable to the Corporation, or decrease in the number of shares of Common Stock issuable, upon the exercise, conversion or exchange thereof, the Applicable Conversion Price for any series as adjusted upon the original issue thereof (or upon the occurrence of a record date with respect thereto), and any subsequent adjustments based thereon, shall, upon any such increase or decrease becoming effective, be readjusted to reflect such increase or decrease insofar as it affects such Options or the rights of conversion or exchange under such Convertible Securities (provided, however, that no such adjustment of any such Applicable Conversion Price shall affect Common Stock previously issued upon conversion of the Convertible Preferred Stock);

(3) upon the expiration or termination of any rights to exercise, convert or exchange pursuant to any Options or Convertible Securities, the Applicable Conversion Price for each series, to the extent in any way affected by or computed on account of such rights, shall be recomputed to reflect the issuance of only the number of shares of Common Stock actually issued upon the exercise of such rights (but continuing to give effect to any adjustment affected or computed on account of any rights to exercise, convert or exchange that have not expired or been terminated and remain in effect under such Options or Convertible Securities);

(4) no readjustment pursuant to clause (2) or (3) above shall have the effect of increasing the Applicable Conversion Price for any series to an amount which exceeds the lower of (a) such Applicable Conversion Price on the original adjustment date, or (b) the Applicable Conversion Price for such series that would have resulted from any issuance of Additional Shares of Common Stock between the original adjustment date and such readjustment date.

(iv) Adjustment of Applicable Conversion Prices Upon Issuance of Additional Shares of Common Stock. In the event this Corporation, at any time after the Third Restated Certificate Date, shall issue Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Section IV.D.5.d(iii)) without consideration or for a consideration per share less than the Applicable Conversion Price for any series in effect on the date of and immediately prior to such issue, then and in such event, such Applicable Conversion Price shall be reduced, concurrently with such issue, to a price (calculated to the nearest cent) determined by multiplying such Applicable Conversion Price by a fraction, the numerator of which shall be the number of shares of Common Stock outstanding immediately prior to such issue plus the number of shares of Common Stock which the aggregate consideration received by the Corporation for the total number of Additional Shares of Common Stock so issued would purchase at a price equal to such Applicable Conversion Price in effect immediately prior to such issuance, and the denominator of which shall be the number of shares of Common Stock

outstanding immediately prior to such issue plus the number of such Additional Shares of Common Stock so issued. For the purpose of the calculations provided for in this paragraph, the number of shares of Common Stock outstanding immediately prior to such issue shall be calculated on a fully diluted basis, as if all shares of Convertible Preferred Stock and all Convertible Securities had been fully converted into shares of Common Stock and any outstanding warrants, options or other rights for the purchase of shares of stock or convertible securities had been fully exercised (and the resulting securities fully converted into shares of Common Stock, if so convertible) as of such date.

(v) Determination of Consideration. For purposes of this Section IV.D.5.d, the consideration received by the Corporation for the issue of any Additional Shares of Common Stock shall be computed as follows:

(1) Cash and Property: Such consideration shall:

(A) insofar as it consists of cash, be computed at the aggregate amount of cash received by the Corporation excluding amounts paid or payable for accrued interest or accrued dividends;

(B) insofar as it consists of property other than cash, be computed at the fair value thereof at the time of such issue, as determined in good faith by the Board of Directors; and

(C) in the event Additional Shares of Common Stock are issued together with other shares or securities or other assets of the Corporation for consideration which covers both, be the proportion of such consideration so received, computed as provided in clauses (A) and (B) above, as determined in good faith by the Board of Directors.

(2) Options and Convertible Securities. The consideration per share received by the Corporation for Additional Shares of Common Stock deemed to have been issued pursuant to Section IV.D.5.d(iii) relating to Options and Convertible Securities shall be determined by dividing

(A) the total amount, if any, received or receivable by the Corporation as consideration for the issue of such Options or Convertible Securities, plus the minimum aggregate amount of additional consideration (as set forth in the instruments relating thereto, without regard to any provision contained therein designed to protect against dilution) payable to the Corporation upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities by

(B) the maximum number of shares of Common Stock (as set forth in the instruments relating thereto, without regard to any provision contained therein designed to protect against the dilution) issuable upon the exercise of such Options or conversion or exchange of such Convertible Securities.

e. Adjustments to Applicable Conversion Prices for Stock Dividends and for Combinations or Subdivisions of Common Stock. In the event that this Corporation at any time or from time to time after the Third Restated Certificate Date shall declare or pay, without consideration, any dividend on the Common Stock payable in Common Stock or in any right to acquire Common Stock for no consideration, or shall effect a subdivision of the outstanding shares of Common Stock into a greater number of shares of Common Stock (by stock split, reclassification or otherwise than by payment of a dividend in Common Stock or in any right to acquire Common Stock), or in the event the outstanding shares of Common Stock shall be combined or consolidated, by reclassification or otherwise, into fewer numbers of shares of Common Stock, then the Applicable Conversion Price for each series in effect immediately prior to such event shall, concurrently with the effectiveness of such event, be proportionately decreased or increased, as appropriate. In the event that this Corporation shall declare or pay, without consideration, any dividend on the Common Stock payable in any right to acquire Common Stock for no consideration, then the Corporation shall be deemed to have made a dividend payable in Common Stock in an amount of shares equal to the maximum number of shares issuable upon exercise of such rights to acquire Common Stock.

f. Adjustments for Reclassification and Reorganization. If the Common Stock issuable upon conversion of the Convertible Preferred Stock shall be changed into the same or a different number of shares of any other class or classes of stock, whether by capital reorganization, reclassification or otherwise (other than a subdivision or combination of shares provided for in Section IV.D.5.e above or a merger or other reorganization constituting a Sale Event), the Applicable Conversion Price for each series then in effect shall, concurrently with the effectiveness of such reorganization or reclassification, be proportionately adjusted so that the Convertible Preferred Stock of such series shall be convertible into, in lieu of the number of shares of Common Stock which the holders of such series would otherwise have been entitled to receive, a number of shares of such other class or classes of stock equivalent to the number of shares of Common Stock that would have been subject to receipt by such holders upon conversion of the Convertible Preferred Stock of such series immediately before that change.

g. Certificates as to Adjustments. Upon the occurrence of each adjustment or readjustment of the Applicable Conversion Price for any series pursuant to this Section IV.D.5, the Corporation at its expense shall promptly compute such adjustment or readjustment in accordance with the terms hereof and prepare and furnish to each holder of Convertible Preferred Stock of such series a certificate executed by the Corporation's Chief Executive Officer or Chief Financial Officer setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, upon the written request at any time of any holder of Convertible Preferred Stock of any series, furnish or cause to be furnished to such holder a like certificate setting forth (i) such adjustments and readjustments, (ii) the Applicable Conversion Price for such series at the time in effect, and (iii) the number of shares of Common Stock and the amount, if any, of other property which at the time would be received upon the conversion of the Convertible Preferred Stock of such series.

h. Notices of Record Date. In the event that the Corporation shall propose at any time: (i) to declare any dividend or distribution upon its Common Stock, whether in cash, property, stock or other securities, whether or not a regular cash dividend and whether or not out of earnings or earned surplus; (ii) to offer for subscription pro rata to the holders of any class or series of its stock any additional shares of stock of any class or series or other rights; (iii) to effect any reclassification or recapitalization of its Common Stock outstanding involving a change in the Common Stock; or (iv) to merge or consolidate with or into any other corporation, or sell, lease or convey all or substantially all of its assets, or to liquidate, dissolve or wind up, the Corporation shall mail to each holder of Convertible Preferred Stock, at least 20 days prior to the date specified therein, a notice specifying the date of such event, in the case of any event specified in clause (iii) or (iv), or the date on which a record is to be taken for the purpose of any such dividend, distribution or offer specified in clause (i) or (ii).

i. Issue Taxes. The Corporation shall pay any and all issue and other taxes that may be payable in respect of any issue or delivery of shares of Common Stock on conversion of shares of Convertible Preferred Stock pursuant hereto; provided, however, that the Corporation shall not be obligated to pay any transfer taxes resulting from any transfer requested by any holder in connection with any such conversion.

j. Reservation of Stock Issuable Upon Conversion. The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of the shares of the Convertible Preferred Stock, such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of the Convertible Preferred Stock; and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Convertible Preferred Stock, the Corporation will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purpose, including, without limitation, engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to this Third Amended and Restated Certificate of Incorporation.

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

l. Notices. Any notice required by the provisions of this Section IV.D.5 to be given to the holders of shares of Convertible Preferred Stock shall be

deemed given if deposited in the United States mail, postage prepaid, and addressed to each holder of record at his address appearing on the books of the Corporation.

16. Article IV, Section D.6 of the Third Amended and Restated Certificate of Incorporation of the Corporation, as amended by the First Amendment, is hereby amended by replacing subsection c thereof with subsections c, d and e to read as follows:

c. So long as any shares of Series B-1 Preferred remain outstanding, the Corporation shall not, without the prior written consent of the holders of at least a majority of the number of shares of the Series B-1 Preferred then outstanding, take any action that:

(i) Alters or changes the rights, preferences or privileges of the Series B-1 Preferred so as to materially and adversely affect such shares;

(ii) Increases or decreases the number of authorized shares of Series B-1 Preferred;

(iii) Authorizes the issuance of securities having a preference over or on a parity with the Series B-1 Preferred; or

(iv) Amends this Third Amended and Restated Certificate of Incorporation or the Bylaws of the Corporation in a manner which materially adversely affects the holders of the Series B-1 Preferred.

d. So long as any shares of Series C Preferred remain outstanding, the Corporation shall not, without the prior written consent of the holders of at least a majority of the number of shares of the Series C Preferred then outstanding, take any action that:

(i) Alters or changes the rights, preferences or privileges of the Series C Preferred so as to materially and adversely affect such shares;

(ii) Increases or decreases the number of authorized shares of Series C Preferred;

(iii) Authorizes the issuance of securities having a preference over or on a parity with the Series C Preferred; or

(iv) Amends this Third Amended and Restated Certificate of Incorporation or the Bylaws of the Corporation in a manner which materially adversely affects the holders of the Series C Preferred.

e. So long as any shares of Preferred Stock remain outstanding, the Corporation shall not, without the prior written consent of the holders of at least a majority of the then outstanding shares of the Preferred Stock (voting together as a single class with a holder, in the case of shares of the Convertible Preferred Stock, being entitled to the number of votes on account of such shares as is equal to the number of shares

of Common Stock into which such shares of Convertible Preferred Stock of such holder could be converted), take any action that:

(i) Effects a Sale Event or effects a transaction that results (other than through redemption of the Preferred Stock) in the holders of the Corporation's capital stock immediately prior to such transaction holding less than 50% of the voting power of the Corporation's capital stock after such transaction; or

(ii) Changes the number of directors comprising the Board of Directors.

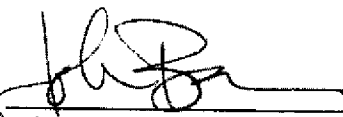
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17. This Second Amendment to Third Amended and Restated Certificate of Incorporation has been duly approved by the Board of Directors of the Corporation.

18. The Corporation has received payment for its stock and this Second Amendment to Third Amended and Restated Certificate of Incorporation has been duly adopted in accordance with the provisions of Sections 242 and 245 of the Delaware General Corporation Law and a written consent of stockholders in lieu of meeting pursuant to Section 228 of the Delaware General Corporation Law.

IN WITNESS WHEREOF, this Second Amendment to Third Amended and Restated Certificate of Incorporation has been subscribed this 21st day of December, 2012 by the undersigned, who affirms that the statements made herein are true and correct.

CUPERTINO ELECTRIC, INC.

By: 
John Boncher, Chief Executive Officer

Signature Page to Second Amendment to Third Amended and Restated Certificate of Incorporation