

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM455028

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	Dissolution and Change of Ownership by Operation of Law		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
NearbyNow, Inc.	FORMERLY McCloud River Acquisition Corp.	12/15/2016	Corporation: DELAWARE
RECEIVING PARTY DATA			
Name:	NinthDecimal, Inc. fka JiWire, Inc.		
Street Address:	150 Post Street, Suite 500		
City:	San Francisco		
State/Country:	CALIFORNIA		
Postal Code:	94108		
Entity Type:	Corporation: DELAWARE		
PROPERTY NUMBERS Total: 1			
Property Type	Number	Word Mark	
Registration Number:	3585441	NEARBYNOW	
CORRESPONDENCE DATA			
Fax Number:	4159891663		
<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:	415-391-4800		
Email:	tm@cpdb.com		
Correspondent Name:	Karen S. Frank		
Address Line 1:	One Montgomery Street, Suite 3000		
Address Line 4:	San Francisco, CALIFORNIA 94104		
NAME OF SUBMITTER:	Karen S. Frank		
SIGNATURE:	/karen s. frank/		
DATE SIGNED:	12/18/2017		
Total Attachments: 27			
source=NinthDecimal - NearbyNow Inc. - DE Certificate of Dissolution (Filed Dec 15 2016)#page1.tif			
source=NinthDecimal - NearbyNow Inc. - DE Certificate of Dissolution (Filed Dec 15 2016)#page2.tif			
source=NinthDecimal - NearbyNow Inc. - DE Certificate of Dissolution (Filed Dec 15 2016)#page3.tif			
source=NinthDecimal - Name Change from JiWire#page1.tif			
source=NinthDecimal - Name Change from JiWire#page2.tif			

OP \$40.00 3585441

source=NinthDecimal - Name Change from JiWire#page3.tif
source=NinthDecimal - Name Change from JiWire#page4.tif
source=NinthDecimal - Name Change from JiWire#page5.tif
source=NinthDecimal - Name Change from JiWire#page6.tif
source=NinthDecimal - Name Change from JiWire#page7.tif
source=NinthDecimal - Name Change from JiWire#page8.tif
source=NinthDecimal - Name Change from JiWire#page9.tif
source=NinthDecimal - Name Change from JiWire#page10.tif
source=NinthDecimal - Name Change from JiWire#page11.tif
source=NinthDecimal - Name Change from JiWire#page12.tif
source=NinthDecimal - Name Change from JiWire#page13.tif
source=NinthDecimal - Name Change from JiWire#page14.tif
source=NinthDecimal - Name Change from JiWire#page15.tif
source=NinthDecimal - Name Change from JiWire#page16.tif
source=NinthDecimal - Name Change from JiWire#page17.tif
source=NinthDecimal - Name Change from JiWire#page18.tif
source=NinthDecimal - Name Change from JiWire#page19.tif
source=NinthDecimal - Name Change from JiWire#page20.tif
source=NinthDecimal - Name Change from JiWire#page21.tif
source=NinthDecimal - Name Change from JiWire#page22.tif
source=NinthDecimal - Name Change from JiWire#page23.tif
source=NinthDecimal - Name Change from JiWire#page24.tif

Delaware

The First State

Page 1

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF DISSOLUTION OF "NEARBYNOW, INC.", FILED IN THIS OFFICE ON THE FIFTEENTH DAY OF DECEMBER, A.D. 2016, AT 9:09 O`CLOCK P.M.

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




Jeffrey W. Bullock, Secretary of State

4080244 8100
SR# 20167111533

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

Authentication: 203534641
Date: 12-16-16

TRADEMARK
REEL: 006233 FRAME: 0224

**STATE OF DELAWARE
CERTIFICATE OF DISSOLUTION
OF NEARBYNOW, INC.**

The corporation organized and existing under the General Corporation Law of the State of Delaware does hereby certify as follows:

The dissolution of NearbyNow, Inc. (the "Corporation") has been duly authorized by the Board of Directors and the Sole Stockholder in accordance with subsection (a) and (b) of Section 275 of the General Corporation Law of the State of Delaware.

The Certificate of Incorporation of the Corporation was filed on December 19, 2005.

The date the dissolution was authorized is December 15, 2016.


The following is a list of the names and addresses of the directors of the Corporation:

<u>NAME</u>	<u>ADDRESS</u>
Chris Albinson	2440 Sand Hill Road, Suite 302 Menlo Park, CA 94025
David Horowitz	1701 John F. Kennedy Boulevard Philadelphia, PA 19103
Marc Ruxin	1160 Battery Street East, Suite 225 San Francisco, CA 94111
Scott Lenet	2545 Boatman Avenue West Sacramento, CA 95691
Michael Fordyce	29 Brookside Road Orinda, CA 94563
Kevin McKenzie	1740 Del Monte Way Moraga, CA 94556

The following is a list of the names and addresses of the officers of the Corporation:

<u>NAME</u>	<u>OFFICE</u>	<u>ADDRESS</u>
Michael Fordyce	Chief Executive Officer	150 Post Street, Suite 500 San Francisco, CA 94108
Jeff Stephens	Secretary & Chief Financial Officer	150 Post Street, Suite 500 San Francisco, CA 94108

IN WITNESS WHEREOF, the Corporation has executed this Certificate of Dissolution
on December 15, 2016.

By: 
Name: Michael Fadya
Title: CEO

Delaware

PAGE 1

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE RESTATED CERTIFICATE OF "JIWIRE, INC.", CHANGING ITS NAME FROM "JIWIRE, INC." TO "NINTHDECIMAL, INC.", FILED IN THIS OFFICE ON THE TWENTY-FOURTH DAY OF JUNE, A.D. 2014, AT 6:21 O'CLOCK P.M.

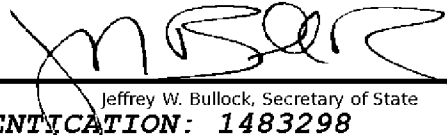
A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.

3638152 8100

140879614

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




Jeffrey W. Bullock, Secretary of State
AUTHENTICATION: 1483298

DATE: 06-24-14

TRADEMARK
REEL: 006233 FRAME: 0227

**ELEVENTH AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF JIWIRE, INC.**

(Pursuant to Sections 242 and 245 of the
General Corporation Law of the State of Delaware)

JiWire, Inc., a corporation organized and existing under the laws of and by virtue of the provisions of the General Corporation Law of the State of Delaware (the "**General Corporation Law**"), does hereby certify :

1. That the name of the corporation is JiWire, Inc., and that the corporation was originally formed with the Secretary of State of the State of Delaware as JIWIRE, LLC on March 19, 2003 and was converted into a corporation on June 13, 2003.

2. That the Board of Directors of this corporation duly adopted resolutions proposing to amend and restate the Certificate of Incorporation of this corporation, declaring said amendment and restatement to be advisable and in the best interests of this corporation and its stockholders, and authorizing the appropriate officers of this corporation to solicit the consent of the stockholders therefor.

3. That the stockholders of this corporation duly adopted resolutions approving the amendment and restatement of the Certificate of Incorporation substantially in the form set forth below.

ARTICLE I

The name of the corporation (hereinafter, the "**Corporation**") is NinthDecimal, Inc.

ARTICLE II

The address of the registered office of the Corporation in the State of Delaware is Corporation Trust Center, 1209 Orange Street, City of Wilmington, County of New Castle, 19801. The name of the registered agent of the Corporation at such address is The Corporation Trust 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.

ARTICLE IV

The Corporation is authorized to issue two classes of stock, designated "**Common Stock**" and "**Preferred Stock**," each with a par value of \$0.001 per share. The total number of shares of Common Stock that the Corporation is authorized to issue is 385,000,000 shares. The total

number of shares of Preferred Stock that the Corporation is authorized to issue is 209,044,492 shares.

The Preferred Stock may be issued from time to time in one or more series. The first series of Preferred Stock shall be comprised of 5,237,969 shares and shall be designated "**Series A-1 Preferred Stock.**" The second series of Preferred Stock shall be comprised of 26,806,523 shares and shall be designated "**Series B-1 Preferred Stock.**" The third series of Preferred Stock shall be comprised of 13,000,000 shares and shall be designated "**Series C-1 Preferred Stock.**" The fourth series of Preferred Stock shall be comprised of 164,000,000 shares and shall be designated "**Series D-1 Preferred Stock.**" The rights, preferences, powers and privileges granted to and restrictions, qualifications and limitations imposed upon the Series A-1 Preferred Stock, Series B-1 Preferred Stock, Series C-1 Preferred Stock and Series D-1 Preferred Stock shall be as provided in this Article IV.

1. Dividends.

(a) The holders of the Preferred Stock shall be entitled to receive in each calendar year, when, as and if declared by the Board of Directors, out of any assets at the time legally available therefor, dividends in cash at the rate per annum of an amount equal to \$0.011864 per share of Series D-1 Preferred Stock, \$0.12750 per share of Series C-1 Preferred Stock, \$0.07656 per share of Series B-1 Preferred Stock and \$0.11955 per share of Series A-1 Preferred Stock, each as adjusted for any stock splits, reverse stock splits, stock dividends, and similar recapitalization events (each event a "**Recapitalization Event**") affecting the Preferred Stock, payable in preference and priority to any payment of any dividend on the Common Stock (other than a stock dividend declared and paid on the Common Stock that is payable in shares of Common Stock (hereinafter referred to as a "**Common Stock Dividend**")). The right to such dividends on the Preferred Stock shall not be cumulative, *provided that* any and all declared but unpaid dividends with respect to all outstanding shares of Preferred Stock shall accrue and be paid upon a Deemed Liquidation Event as provided in Section 2 below.

(b) After the payment or setting aside for payment of the dividends described in Section 1(a), any additional dividends (other than a Common Stock Dividend) set aside or paid in any fiscal year shall be set aside or paid among the holders of the Preferred Stock and Common Stock then outstanding in proportion to the greatest whole number of shares of Common Stock which would be held by each such holder if all shares of Preferred Stock were converted at the respective Conversion Price then in effect.

2. Liquidation Preference. In the event of any liquidation, dissolution or winding up of the Corporation, either voluntary or involuntary, the assets and funds of the Corporation available for distribution to stockholders shall be distributed as follows:

(a) The "**Original Series D-1 Price**" shall be \$0.1483, as adjusted for any Recapitalization Events. The holders of shares of Series D-1 Preferred Stock then outstanding shall be entitled to receive, out of the assets of the Corporation available for distribution to its stockholders, before any payment shall be made in respect of the Corporation's Series C-1 Preferred Stock, Series B-1 Preferred Stock, Series A-1 Preferred Stock or Common Stock by reason of their ownership of such stock, an amount equal to the sum of (i) two times the Original

13777.012 2836715v8

Series D-1 Price, plus (ii) all declared and unpaid dividends (if any) thereon to the date fixed for such distribution. If, upon the liquidation, dissolution or winding up of the Corporation, the assets of the Corporation legally available for distribution are insufficient to permit the payment to the holders of Series D-1 Preferred Stock of the full preferential amount specified in this Section 2(a), then the entire assets of the Corporation legally available for distribution to stockholders shall be distributed with equal priority and *pro rata* among the holders of the Series D-1 Preferred Stock in proportion to the full preferential amounts which they would otherwise be entitled to receive pursuant to the preceding sentence of this Section 2(a).

(b) After the full preferential amounts due the holders of the Series D-1 Preferred Stock pursuant to Section 2(a) have been paid or set aside, the holders of shares of Series C-1 Preferred Stock then outstanding shall be entitled to receive, out of the assets of the Corporation available for distribution to its stockholders, before any payment shall be made in respect of the Corporation's Series B-1 Preferred Stock, Series A-1 Preferred Stock or Common Stock by reason of their ownership of such stock, an amount equal to \$1.5938 per share of Series C-1 Preferred Stock, as adjusted for any Recapitalization Events (the "**Original Series C-1 Price**"), plus all declared and unpaid dividends (if any) thereon to the date fixed for such distribution. If, upon the liquidation, dissolution or winding up of the Corporation, the assets of the Corporation legally available for distribution are insufficient to permit the payment to the holders of Series C-1 Preferred Stock of the full preferential amount specified in this Section 2(b), then the entire assets of the Corporation legally available for distribution to the holders of Series C-1 Preferred Stock shall be distributed with equal priority and *pro rata* among the holders of the Series C-1 Preferred Stock in proportion to the full preferential amounts which they would otherwise be entitled to receive pursuant to the preceding sentence of this Section 2(b).

(c) After the full preferential amounts due the holders of the Series D-1 Preferred Stock and Series C-1 Preferred Stock pursuant to Sections 2(a) and 2(b) have been paid or set aside, the holders of shares of Series B-1 Preferred Stock then outstanding shall be entitled to receive, out of the assets of the Corporation available for distribution to its stockholders, before any payment shall be made in respect of the Corporation's Series A-1 Preferred Stock or Common Stock by reason of their ownership of such stock, an amount equal to \$0.957 per share of Series B-1 Preferred Stock, as adjusted for any Recapitalization Events (the "**Original Series B-1 Price**"), plus all declared and unpaid dividends (if any) thereon to the date fixed for such distribution. If, upon the liquidation, dissolution or winding up of the Corporation, the assets of the Corporation legally available for distribution are insufficient to permit the payment to the holders of Series B-1 Preferred Stock of the full preferential amount specified in this Section 2(c), then the entire assets of the Corporation legally available for distribution to the holders of Series B-1 Preferred Stock shall be distributed with equal priority and *pro rata* among the holders of the Series B-1 Preferred Stock in proportion to the full preferential amounts which they would otherwise be entitled to receive pursuant to the preceding sentence of this Section 2(c).

(d) After the full preferential amounts due the holders of Series D-1, Series C-1 and Series B-1 Preferred Stock pursuant to Sections 2(a), (b) and (c) have been paid or set aside, the holders of shares of Series A-1 Preferred Stock then outstanding shall be entitled to

receive, out of the assets of the Corporation available for distribution to its stockholders, before any payment shall be made in respect of the Corporation's Common Stock by reason of their ownership of such stock, an amount equal to \$1.4944 per share of Series A-1 Preferred Stock, as adjusted for any Recapitalization Events (the "**Deemed Series A-1 Price**" and, together with the Original Series D-1 Price, Original Series C-1 Price and the Original Series B-1 Price, the "**Original Issue Price**" of each such respective series), plus all declared and unpaid dividends (if any) thereon to the date fixed for such distribution. If, upon the liquidation, dissolution or winding up of the Corporation, the assets of the Corporation legally available for distribution are insufficient to permit the payment to the holders of Series A-1 Preferred Stock of the full preferential amount specified in this Section 2(d), then the entire assets of the Corporation legally available for distribution to the holders of Series A-1 Preferred Stock shall be distributed with equal priority and *pro rata* among the holders of the Series A-1 Preferred Stock in proportion to the full preferential amounts which they would be entitled to receive pursuant to the preceding sentence of this Section 2(d).

(e) After the full preferential amounts due the holders of Preferred Stock pursuant to Sections 2(a), (b), (c) and (d) have been paid or set aside, the entire remaining assets of the Corporation legally available for distribution to its stockholders, if any, shall be distributed *pro rata* to the holders of Common Stock and Preferred Stock in proportion to the number of shares of Common Stock then held by each holder, with the shares of Preferred Stock being treated for this purpose as if they had been converted to shares of Common Stock at the then applicable Conversion Price.

(f) For purposes of this Section 2, a liquidation, dissolution or winding up of the Corporation shall be deemed to be occasioned by, or to include, (i) a merger or consolidation of the Corporation into or with another entity by means of any transaction or series of related transactions to which the Corporation is party (including, without limitation, any stock acquisition, reorganization, merger or consolidation but excluding any sale of stock for capital raising purposes) after which the holders of voting securities of the Corporation outstanding immediately prior to such transaction do not own, immediately following the consummation of such transaction or series of related transactions by virtue of their shares in the Corporation or securities received in exchange for such shares in connection with the transaction, a majority of the total voting power represented by the outstanding voting securities of the Corporation or such other surviving entity, (ii) the sale, lease, transfer, exclusive license or other disposition, in a single transaction or series of related transactions, by the Corporation or any subsidiary of the Corporation of all or substantially all of the assets of the Corporation and its subsidiary taken as a whole, or the sale or disposition (whether by merger or otherwise) of one or more subsidiaries of the Corporation if substantially all of the assets of the Corporation and its subsidiaries taken as a whole are held by such subsidiary or subsidiaries, except where such sale, lease, transfer, exclusive license or other disposition is to a wholly owned subsidiary of the Corporation, or (iii) the sale or transfer by the Corporation or its stockholders of more than 50% of the total voting power represented by the outstanding voting securities of the Corporation in a transaction or series of related transactions other than in a transaction or series of transactions effected by the Corporation primarily for capital raising purposes (each, a "**Deemed Liquidation Event**"). The treatment of any transaction or series of related transactions as a Deemed Liquidation Event pursuant to clauses (i), (ii) and (iii) of the preceding sentence may be waived by the consent or

vote of the holders of a majority of the then outstanding shares of Preferred Stock voting together as a single class on an as-converted basis. For the purposes of this Section 2, consideration placed into escrow or retained as a holdback to be available for satisfaction of indemnification or similar obligations in connection with such Deemed Liquidation Event shall be allocated to stockholders pursuant to Sections 2(a) through 2(e) above upon receipt thereof by the Corporation.

(g) In the event of any liquidation, dissolution, or winding up of the Corporation involving the distribution of assets other than cash to the stockholders of the Corporation, the value of the assets to be distributed shall be determined as follows:

(i) In the case of securities,

(A) if then traded on a national securities exchange or market, the value shall be deemed to be the average of the closing prices of the securities for the ten (10) consecutive trading days immediately preceding the three (3) days prior to the closing;

(B) if actively traded over-the-counter, the value shall be deemed to be the average of (i) the average of the last bid and ask prices or (ii) the closing sale prices (whichever is applicable) over the 30-day period ending three days prior to the closing; and

(C) if there is no active public market, the value shall be the fair market value thereof, as mutually determined in good faith by the Board of Directors of the Corporation and the holders of at least a majority of the voting power of all then outstanding shares of Preferred Stock.

(ii) In the case of any other property, the value shall be equal to the property's fair market value, as determined in good faith by the Board of Directors of the Corporation and the holders of at least a majority of the voting power of all then outstanding shares of Preferred Stock.

For the purposes of this subsection 2(g), "*trading day*" shall mean any day which the exchange or system on which the securities to be distributed are traded is open and "*closing prices*" or "*closing sale prices*" shall be deemed to be: (i) for securities traded primarily on the New York Stock Exchange, the American Stock Exchange or a Nasdaq market, the last reported trade price or sale price, as the case may be, at 4:00 p.m., New York time, on that day and (ii) for securities listed or traded on other exchanges, markets and systems, the market price as of the end of the regular hours trading period that is generally accepted as such for such exchange, market or system. If, after the date hereof, the benchmark times generally accepted in the securities industry for determining the market price of a stock as of a given trading day shall change from those set forth above, the fair market value shall be determined as of such other generally accepted benchmark times.

3. **Conversion.** The holders of the Preferred Stock shall have conversion rights as follows:

(a) **Right to Convert.** Each share of Preferred Stock shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share, at the office of the Corporation or any transfer agent for the Preferred Stock, into that number of fully paid and nonassessable shares of Common Stock determined by dividing the Deemed Series A-1 Price, in the case of the Series A-1 Preferred Stock, the Original Series B-1 Price, in the case of the Series B-1 Preferred Stock, the Original Series C-1 Price, in the case of the Series C-1 Preferred Stock, or the Original Series D-1 Price, in the case of the Series D-1 Preferred Stock, by the Conversion Price for such series of Preferred Stock in effect at the time of conversion. The "**Conversion Price**" for the Series A-1 Preferred Stock, Series B-1 Preferred Stock, Series C-1 Preferred Stock and Series D-1 Preferred Stock shall be, as of the date of the filing of this Eleventh Amended and Restated Certificate of Incorporation, \$0.717, \$0.483, \$0.761 and \$0.1483, respectively, and shall be subject to adjustment as provided in Section 3(d) below.

(b) **Automatic Conversion.** Each share of Preferred Stock shall automatically be converted into fully paid and nonassessable shares of Common Stock, at the then effective Conversion Price, (i) upon the vote or written consent of the holders of at least a majority of the then outstanding shares of Series A-1 Preferred Stock, Series B-1 Preferred Stock, Series C-1 Preferred Stock, and Series D-1 Preferred Stock, with each series voting separately on an as-converted basis or (ii) immediately prior to the closing of a firm commitment underwritten public offering pursuant to an effective registration statement on Form S-1 (or a successor form) under the Securities Act of 1933, as amended, covering the offer and sale of Common Stock provided that either (a) the aggregate gross proceeds to the Corporation of such offering (prior to underwriters' commissions and expenses) are not less than \$60,000,000 or (b) such automatic conversion has been approved by holders of a majority of the then outstanding shares of Preferred Stock voting together as a single class on an as-converted basis.

(c) **Mechanics of Conversion.** Before any holder of Preferred Stock shall be entitled to convert the same into shares of Common Stock, such holder shall either (i) surrender the certificate or certificates therefor, duly endorsed, at the headquarters of the Corporation or of any transfer agent for the Corporation or (ii) notify the Corporation or its transfer agent that such certificates have been lost, stolen or destroyed and execute an agreement satisfactory to the Corporation to indemnify the Corporation from any loss incurred by it in connection with such certificates and shall give written notice to the Corporation at such office that the holder elects to convert the same and shall state therein the name or names in which the certificate or certificates for shares of Common Stock are to be issued (except that no such written notice of election to convert shall be necessary in the event of an automatic conversion pursuant to Section 3(b) hereof). The Corporation shall, as soon as practicable thereafter, issue and deliver at such office to such holder of Preferred Stock, or to the nominee or nominees of such holder, a certificate or certificates for the number of shares of Common Stock to which he shall be entitled as aforesaid and a check payable to such holder in the amount of any cash amounts payable as the result of a conversion into fractional shares of Common Stock, plus any declared and unpaid dividends on the converted Preferred Stock. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of Preferred Stock to be converted (except that, in the case of an automatic conversion upon an initial public offering pursuant to Section 3(b), such conversion shall be deemed to have been made immediately prior to the closing of the offering) 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. Upon the occurrence of either of the events specified in Section 3(b) above, the outstanding shares of Preferred Stock shall be converted automatically without any further action by the holders of such shares and whether or not the certificates representing such shares are surrendered to the Corporation or its transfer agent; provided, however, that the Corporation shall not be obligated to issue certificates evidencing the shares of Common Stock issuable upon such conversion unless either the certificates evidencing such shares of Preferred Stock are delivered to the Corporation or its transfer agent as provided above, or the holder notifies the Corporation or its transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the Corporation to indemnify the Corporation against any loss incurred by it in connection with such certificates.

(d) Adjustments to Conversion Price for Dilutive Issuances.

(i) Special Definitions. For purposes of this Section 3(d), the following definitions shall apply:

(A) "Original Issue Date" shall mean the date of filing of this Eleventh Amended and Restated Certificate of Incorporation.

(B) "Additional Shares of Common Stock" shall mean all shares of Common Stock issued (or, pursuant to Section 3(d)(ii) below, deemed to be issued) by the Corporation after the Original Issue Date, other than:

(1) shares of Common Stock issued upon conversion of Preferred Stock;

(2) shares of Common Stock issued or issuable to officers, directors or employees of, or consultants to, the Corporation pursuant to any stock option plan or agreement or other stock incentive program or agreement unanimously approved by the Board of Directors of the Corporation;

(3) shares issued in connection with the acquisition of another business entity or other business segment of any such entity by the Corporation by merger, purchase of substantially all the assets or other reorganization of another business entity in a transaction approved by the Board of Directors of the Corporation, including the votes of a majority of the directors designated by the holders of Preferred Stock;

(4) shares issuable upon exercise of the warrants to purchase Series B-1 Preferred issued and sold by the Corporation pursuant to that certain Series B-1 Preferred Stock and Warrant Purchase Agreement under which the Corporation first sold the Series B-1 Preferred Stock;

(5) shares for which an adjustment is made pursuant to Section 3(d)(v);

(6) shares of Common Stock issued or issuable in connection with venture debt, bank debt (including lines of credit) and lease financings approved by the Board of Directors of the Corporation;

(7) shares of Common Stock issued or issuable upon exercise of any warrants issued and sold by the Corporation pursuant to that certain Note and Warrant Purchase Agreement entered into by the Corporation on July 29, 2010 (as may be subsequently amended or modified), whether issued and sold under the first tranche or the second tranche as contemplated thereby; and

(8) shares of Common Stock issued upon the exercise of warrants issued under any tranche contemplated by that certain Series D-1 Stock and Warrant Purchase Agreement entered into by the Corporation on May 15, 2013 and under any tranche contemplated by that certain 2014 Series D-1 Stock and Warrant Purchase Agreement, as may be amended from time to time (the "*2014 Series D-1 Purchase Agreement*").

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

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

(ii) **Deemed Issue of Additional Shares of Common Stock.** In the event the Corporation at any time or from time to time after the Original Issue Date shall issue any Options or Convertible Securities or shall fix a record date for the determination of holders of any class of securities entitled to receive any such Options or Convertible Securities, then the following provisions shall apply:

(A) The maximum number of shares (as set forth in the instrument relating thereto without regard to any provisions contained therein for a subsequent adjustment of such number) of Common Stock issuable upon the exercise of such Options or upon the conversion or exchange of such Convertible Securities shall be deemed to be Additional Shares of Common Stock issued as of the time of the issuance of such Option or Convertible Security or, in case such a record date shall have been fixed, as of the close of business on such record date.

(B) Except as provided in paragraphs (C) and (D) below, no further adjustment in the 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.

(C) If such Options or Convertible Securities by their terms provide, with the passage of time or otherwise, for any change in the consideration payable to the Corporation or the number of shares of Common Stock issuable upon the exercise, conversion or exchange thereof (other than a change resulting from the antidilution provisions of such Options

13777.012.2836715v8

or Convertible Securities), the Conversion Price computed 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 recomputed 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 such recomputed Conversion Price shall not exceed the Conversion Price that would have been in effect had the original issuance of Options or Convertible Securities not been deemed to constitute an issuance of Additional Shares of Common Stock.

(D) Upon the expiration of any such Options or Convertible Securities, the Conversion Price, to the extent in any way affected by or computed using such Options or Convertible Securities, shall be recomputed to reflect the issuance of only the number of shares of Common Stock actually issued upon the exercise of such Options or Convertible Securities.

(iii) Adjustment of Conversion Price for Dilutive Issuances.

(A) Subject to Sections 3(d)(iii)(B), 3(d)(iii)(C), 3(d)(iii)(D) and 3(d)(iii)(E), in the event the Corporation shall issue Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Section 3(d)(ii)) after the Original Issue Date without consideration or for a consideration per share less than the Conversion Price for any series of Preferred Stock in effect immediately prior to such issuance, then and in each such event the Conversion Price for such series shall be reduced to a price (rounded to the nearest one tenth of one cent) equal to such Conversion Price multiplied by a fraction:

(x) the numerator of which is equal to the number of shares of Common Stock outstanding or deemed to be outstanding immediately prior to such issuance 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 the Conversion Price in effect immediately prior to such issuance; and

(y) the denominator of which is equal to the number of shares of Common Stock outstanding and deemed to be outstanding immediately prior to such issuance plus the number of Additional Shares of Common Stock so issued.

For the purposes of this paragraph (iii), the number of shares of Common Stock deemed to be outstanding shall be deemed to include the Common Stock issuable upon full exercise and conversion of all then outstanding Options and Convertible Securities.

(B) Notwithstanding Section 3(d)(iii)(A), no adjustment to the Conversion Price applicable to the Series A-1 Preferred Stock shall be made in respect of the issuance of any Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Section 3(d)(ii)) if, by affirmative vote or written consent, the holders of a majority of the then outstanding shares of Series A-1 Preferred Stock waive the application of Section 3(d)(iii)(A) to the issuance of such Additional Shares of Common Stock.

(C) Notwithstanding Section 3(d)(iii)(A), no adjustment to the Conversion Price applicable to the Series B-1 Preferred Stock shall be made in respect of the issuance of any Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Section 3(d)(ii)) if, by affirmative vote or written consent, the holders of a majority of the then outstanding shares of Series B-1 Preferred Stock waive the application of Section 3(d)(iii)(A) to the issuance of such Additional Shares of Common Stock.

(D) Notwithstanding Section 3(d)(iii)(A), no adjustment to the Conversion Price applicable to the Series C-1 Preferred Stock shall be made in respect of the issuance of any Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Section 3(d)(ii)) if, by affirmative vote or written consent, the holders of a majority of the then outstanding shares of Series C-1 Preferred Stock waive the application of Section 3(d)(iii)(A) to the issuance of such Additional Shares of Common Stock.

(E) Notwithstanding Section 3(d)(iii)(A), no adjustment to the Conversion Price applicable to the Series D-1 Preferred Stock shall be made in respect of the issuance of any Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Section 3(d)(ii)) if, by affirmative vote or written consent, the holders of a majority of the then outstanding shares of Series D-1 Preferred Stock waive the application of Section 3(d)(iii)(A) to the issuance of such Additional Shares of Common Stock.

(iv) **Determination of Consideration.** For purposes of this Section 3(d), the consideration received by the Corporation for the issue (or deemed issue) of any Additional Shares of Common Stock shall be computed as follows:

(A) **Cash and Property.** Such consideration shall:

(1) insofar as it consists of cash, be computed at the aggregate amount of cash received by the Corporation before deducting any reasonable discounts, commissions or other expenses allowed, paid or incurred by the Corporation for any underwriting or otherwise in connection with the issuance and sale thereof;

(2) insofar as it consists of property other than cash, be computed at the fair value market thereof at the time of such issue, as determined in good faith by the Board of Directors of the Corporation including at least a majority of the directors appointed by the holders of Preferred Stock; and

(3) in the event Additional Shares of Common Stock are issued together with other securities or other assets of the Corporation for consideration that covers both, be the proportion of such consideration so received with respect to the Additional Shares of Common Stock, computed as provided in clauses (1) and (2) above, as determined in good faith by the Board of Directors of the Corporation including at least a majority of the directors appointed by the holders of Preferred Stock.

(B) **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 3(d)(ii) relating to Options and Convertible Securities shall be equal to:

(x) the total amount, if any, received or receivable by the Corporation as consideration for the issuance 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 for a subsequent adjustment of such consideration) 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, divided by

(y) the maximum number of shares of Common Stock (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or the conversion or exchange of such Convertible Securities.

(v) Other Adjustments to Conversion Price.

(A) Subdivisions, Combinations or Consolidations. In the event the outstanding shares of Common Stock shall be subdivided, combined or consolidated, by stock split, reverse stock split or similar event, into a greater or lesser number of shares of Common Stock after the Original Issue Date, the Conversion Price for such series in effect immediately prior to such subdivision, combination or consolidation shall, concurrently with the effectiveness of such subdivision, combination or consolidation, be proportionately adjusted.

In the event the outstanding shares of Preferred Stock or a series of Preferred Stock shall be subdivided, combined or consolidated by stock split, revenue stock split or similar event, into a greater or lesser number of shares of Preferred Stock, the Original Issue Price, Conversion Price and Liquidation Preference for such series in effect immediately prior to such subdivision, combination or consolidation shall, concurrently with the effectiveness of such subdivision, combination or consolidation, be proportionately adjusted.

(B) Common Stock Dividends and Distributions. If, after the Original Issue Date, the Corporation at any time or from time to time issues, or fixes a record date for determination of holders of Common Stock entitled to receive, a dividend or other distribution payable in additional shares of Common Stock, then in each such event, as of the time of such issuance or, in the event such record date is fixed, as of the close of business on such record date, the Conversion Price for such series that is then in effect shall be decreased by multiplying the Conversion Price then in effect by a fraction, (x) the numerator of which is the number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date, and (y) the denominator of which is the number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date plus the number of shares of Common Stock issuable in payment of such dividend or distribution; *provided, however,* that if such record date is fixed and such dividend or distribution is not paid in full on the date fixed therefor, the Conversion Price shall be recomputed accordingly as of the close of business on such record

13777.0122836715v8

date and thereafter the Conversion Price shall be adjusted pursuant to this Section 3(d)(v)(B) to reflect the actual payment of such dividend or distribution.

(C) Other Distributions. In case the Corporation shall distribute to holders of its Common Stock shares of its capital stock (other than shares of Common Stock and other than as otherwise subject to adjustment pursuant to this Section 3(d)), stock or other securities of other persons, evidences of indebtedness issued by the Corporation or other persons, assets (excluding cash dividends) or options or rights (excluding options to purchase and rights to subscribe for Common Stock or other securities of the Corporation convertible into or exchangeable for Common Stock), or shall fix a record date for determination of holders of Common Stock entitled to receive such a distribution, then, in each such case, provision shall be made so that the holders of Preferred Stock shall be entitled to receive, upon conversion thereof, in addition to the number of shares of Common Stock receivable thereupon, the amount of securities of the Corporation that they would have received had their Preferred Stock been converted into Common Stock on the date of such event (or on the record date with respect thereto, if such record date is fixed) and had they thereafter, during the period from the date of such event to and including the date of conversion, retained such securities receivable by them as aforesaid during such period, subject to all other adjustments called for during such period under this Section 3 with respect to the rights of the holders of the Preferred Stock.

(D) Recapitalizations and Reorganizations. In the case of any capital recapitalization or reorganization (other than a subdivision, combination or other recapitalization provided for elsewhere in this Section 3 or a merger or sale of assets provided for in Section 2), or the fixing of any record date for determination of holders of Common Stock affected by such recapitalization or reorganization, provision shall be made so that the holders of Preferred Stock shall be entitled to receive, upon conversion thereof, the type and number of shares of stock or other securities or property of the Corporation or otherwise that they would have received had their Preferred Stock been converted into Common Stock on the date of such event (or on the record date with respect thereto, if such record date is fixed) and had they thereafter, during the period from the date of such event to and including the date of conversion, retained such securities receivable by them as aforesaid during such period, subject to all other adjustments called for during such period under this Section 3 with respect to the rights of the holders of the Preferred Stock. In any such case, appropriate adjustment shall be made in the application of the provisions of this Section 3 to the end that the provisions of this Section 3 shall be applicable after the recapitalization or reorganization.

(e) Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the Conversion Price for a series of Preferred Stock pursuant to this Section 3, the Corporation at its expense shall promptly compute such adjustment or readjustment in accordance with the terms hereof and furnish to each holder of a share of such series of Preferred Stock a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based including the consideration received for any Additional Shares of Common Stock issued. The Corporation shall, upon the written request at any time of any holder of Preferred Stock, furnish or cause to be furnished to such holder a like certificate setting forth (i) such adjustments and readjustments, (ii) the Conversion Price at the time in effect for the series of Preferred Stock held by such holder and (iii) the number of

shares of Common Stock and the type and amount, if any, of other property which at the time would be received upon the conversion of a share of such series of Preferred Stock.

(f) Fractional Shares. No fractional shares of Common Stock shall be issued upon conversion of shares of Preferred Stock. In lieu of any fractional shares to which the holder of Preferred Stock would otherwise be entitled, the Corporation shall pay cash equal to such fraction multiplied by the fair market value of one share of Common Stock as determined by the Board of Directors of the Corporation. The number of whole shares issuable to each holder of a series of Preferred Stock upon such conversion shall be determined on the basis of the number of shares of Common Stock issuable upon conversion of the total number of shares of such series being converted into Common Stock by such holder at that time.

(g) Notices of Record Date. In the event (i) the Corporation shall take a record of the holders of its capital stock for the purpose of entitling them to receive a dividend or other distribution (other than a cash dividend) or to subscribe for or purchase any shares of stock of any class or to receive any other rights, (ii) of any capital reorganization, reclassification or recapitalization, or (iii) of the voluntary or involuntary dissolution, liquidation or winding up of the Corporation or any transaction deemed to be a liquidation pursuant to Section 2, then, and in any such case, the Corporation shall cause to be mailed to each holder of record of the Preferred Stock at the address of record of such stockholder as set forth on the Corporation's books, at least twenty (20) days prior to the earliest date hereinafter specified, a notice stating the material terms of the proposed transaction and the date on which (x) a record is to be taken for the purpose of such dividend, distribution or rights or (y) such reorganization, reclassification, recapitalization, dissolution, liquidation or winding up is to take place and the date, if any is to be fixed, as of which holders of capital stock of record shall be entitled to exchange their shares of capital stock for securities or other property deliverable upon such reorganization, reclassification, recapitalization, dissolution, liquidation or winding up; provided, however, that such notice period may be shortened upon the written consent of holders of at least a majority of the then outstanding shares of such Preferred Stock. If any material change in the facts set forth in the written notice shall occur, the Corporation shall promptly give written notice of such material change to each holder of shares of Preferred Stock.

(h) No Impairment. Without obtaining such consent of the holders of Preferred Stock as may be required under Section 5, the Corporation will not, by amendment of its Certificate of Incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Corporation, but will at all times in good faith assist in the carrying out of all the provisions of this Section 3 and in the taking of all such action as may be necessary or appropriate in order to protect the conversion rights of the holders of Preferred Stock against impairment.

(i) Reservation of Stock Issuable Upon Conversion. The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of the 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 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 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.

4. Voting Rights.

(a) **General.** Each holder of Preferred Stock shall be entitled to a number of votes equal to the number of whole shares of Common Stock into which such holder's shares of Preferred Stock could be converted at the close of business on the record date fixed for a stockholders meeting or the effective date of a written consent and, except as otherwise required by law or as set forth herein, shall have voting rights and powers equal to the voting rights and powers of the Common Stock. Each holder of Preferred Stock shall be entitled to notice of any stockholders' meeting in accordance with the Bylaws of the Corporation and shall be entitled to vote with the holders of Common Stock with respect to any matter upon which holders of Common Stock have the right to vote, except as otherwise provided herein or those matters required by law to be submitted to a vote of the Preferred Stock as a class.

(b) **Election of Directors.** At each election of directors of the Corporation, (i) the holders of Series A-1 Preferred Stock, voting as a separate class, shall be entitled to elect one (1) director, (ii) the holders of Series B-1 Preferred Stock, voting as a separate class, shall be entitled to elect two (2) directors, (iii) the holders of Series C-1 Preferred Stock, voting as a separate class, shall be entitled to elect one (1) director, (iv) the holders of Common Stock, voting as a separate class, shall be entitled to elect one (1) director, and (v) the holders of Preferred Stock and Common Stock, voting together as a single class on an as-converted basis, shall be entitled to elect the remaining directors of the Corporation.

(c) **Adjustment in Authorized Common Stock.** The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares of Common Stock then outstanding) by an affirmative vote of the holders of a majority of the Preferred and Common Stock of the Corporation voting together as a single class.

5. Protective Provisions.

(a) So long as any shares of Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without first obtaining (in addition to any other vote required by law) the affirmative vote or written consent of the holders of a majority of the then outstanding shares of Preferred Stock voting together as a single class:

(i) authorize or create (by reclassification, merger or otherwise) or issue, or obligate itself to issue, any new class or series of equity security (including any security convertible into or exercisable for any equity security) having rights, preferences or privileges with respect to dividends or payments upon liquidation senior to or on a parity with any series of Preferred Stock or having voting rights other than those granted to the Preferred Stock generally;

(ii) declare or pay any dividend;

(iii) redeem, purchase or otherwise acquire any shares of Common Stock other than in connection with (i) the repurchase of Common Stock at the original purchase price from employees, officers, directors, consultants or other service providers pursuant to agreements providing for such repurchase upon termination of employment or (ii) the exercise of the Corporation's Right of First Refusal as set forth in the Right of First Refusal and Co-Sale Agreement of the Corporation as amended and restated;

(iv) increase or decrease the size of the Corporation's Board of Directors;

(v) enter into any agreement or transaction with any officer, director or stockholder of the Corporation (other than indemnification agreements, employment agreements or stock option or restricted stock agreements, in the normal course of business);

(vi) issue any debt in excess of \$500,000

(vii) amend the Certificate of Incorporation of the Corporation; or

(viii) engage in any liquidation, dissolution, or winding-up of the Corporation, or effect any merger or consolidation or any other Deemed Liquidation Event.

(b) So long as any shares of Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without first obtaining (in addition to any other vote required by law) the affirmative vote or written consent of the holders of a majority of the then outstanding shares of the affected series of Preferred Stock voting as a separate class on an as-converted basis:

(i) increase the total number of authorized shares of such series of Preferred Stock; or

(ii) modify the rights, preferences, privileges or restrictions of such series of Preferred Stock other than a change made to all series which affects all series similarly and proportionately.

(c) So long as any shares of Series D-1 Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without first obtaining (in addition to any other vote required by law) the affirmative vote or written consent of the holders of a majority of the Series D-1 Preferred Stock:

(i) sell additional shares of Series D-1 Preferred Stock, other than 62,710,721 shares of Series D-1 Preferred Stock authorized to be sold on or after the Original Issue Date pursuant to the 2014 Series D-1 Purchase Agreement.

6. Status of Converted or Redeemed Stock. In the event any shares of Preferred Stock shall be converted pursuant to Section 3 hereof, or otherwise acquired by the Corporation, the shares so converted or redeemed shall be canceled and shall not be issuable by the Corporation, and the Certificate of Incorporation of the Corporation shall be appropriately amended to effect the corresponding reduction in the Corporation's authorized capital stock.

7. Residual Rights. All rights accruing to the outstanding shares of the Corporation not expressly provided for to the contrary herein shall be vested in the Common Stock.

8. Consent to Certain Repurchases. To the extent the Corporation may be subject to Section 2115 of the California Corporations Code, each holder of shares of Preferred Stock shall be deemed to have consented, for purposes of Section 500 of the California Corporations Code, to any distribution made by the Corporation in connection with (i) repurchases of Common Stock issued to or held by employees, officers, directors or consultants of the Corporation or its subsidiaries upon termination of their employment or services pursuant to agreements providing for the right of said repurchase, (ii) repurchases of Common Stock issued to or held by employees, officers, directors or consultants of the Corporation or its subsidiaries pursuant to rights of first refusal contained in agreements providing for such right, (iii) repurchases of Common Stock or Preferred Stock in connection with the settlement of disputes with any stockholder, and (iv) any other repurchase or redemption of Common Stock or Preferred Stock approved by the holders of at least a majority of the outstanding Preferred Stock of the Corporation can be made without regard to the "preferential rights amount" or "preferential rights" or "preferential dividends arrears amount" referenced in Section 500(b) of the California Corporations Code.

9. Special Mandatory Conversion.

(a) Trigger Events.

(i) Qualified Financing. In the event that any Major Investor (as defined below) does not participate in a Qualified Financing (as defined below) by purchasing, in the aggregate, in such Qualified Financing and within the time period specified by the Corporation (provided that the Corporation has sent to each Major Investor at least 10 days written notice of, and the opportunity to purchase its Pro Rata Amount (as defined below) of, the Qualified Financing), such holder's full Pro Rata Amount, then the Applicable Portion (as defined below) of the shares of Preferred Stock held by such holder shall automatically, and without any further action on the part of such holder, be converted into shares of Common Stock at the applicable Conversion Price for such shares of Preferred Stock in effect immediately prior to the consummation of such Qualified Financing, effective upon, subject to, and concurrently with, the consummation of the Qualified Financing. In addition, following any such failure of a Major Investor to purchase its full Pro Rata Amount in the Qualified Financing, (i) the shares of Common Stock issued upon such conversion shall cease to be deemed Registrable Securities under the Fourth Amended and Restated Investor Rights Agreement, dated May 15, 2013, as the same may be further amended hereafter, by and among the Corporation and holders of Preferred Stock and certain warrants to purchase Preferred Stock (the "*IRA*") and shall not be used, at any time following such conversion, in any calculation of a Major Investor's entitlement under any

right of first refusal or co-sale rights to which a Major Investor would otherwise be entitled with respect to shares of the Company's securities; and (ii) such Major Investor shall lose any right it may have had to nominate and have elected a director under the Voting Agreement (as defined below). For purposes of determining the number of Offered Securities (as defined below) a Major Investor has purchased in a Qualified Financing, all Offered Securities purchased by Affiliates (as defined below) of such holder shall be aggregated with the Offered Securities purchased by such holder (provided that no shares or securities shall be attributed to more than one entity or person within any such group of affiliated entities or persons and the Applicable Portion shall be calculated with respect to each such holder alone without reference to its Affiliates). Such conversion is referred to as a "**Qualified Financing Special Mandatory Conversion.**"

(ii) **Fourth Tranche.** In the event that any stockholder who purchases shares of Series D-1 Preferred Stock in the Third Tranche (as defined in that certain 2014 Series D-1 Preferred Purchase Agreement) does not participate in the Fourth Tranche (as defined in, and in accordance with, the 2014 Series D-1 Purchase Agreement) by purchasing, in the aggregate, in such Fourth Tranche and within the time period specified by the Corporation (provided that the Corporation has sent to each holder of Series D-1 Preferred Stock purchased in the Third Tranche at least 10 days written notice of, and the opportunity to purchase its Pro Rata Amount of, the Fourth Tranche) such holder's full Pro Rata Amount, each share of Series D-1 Preferred Stock purchased by such holder in the Third Tranche shall automatically, and without any further action on the part of such holder or the Corporation, be converted into one share of Common Stock, effective upon, subject to, and concurrently with, the Fourth Tranche Closing (as defined in the 2014 Series D-1 Purchase Agreement). In addition, following any such failure of a holder of Series D-1 Preferred to purchase its full Pro Rata Amount in the Fourth Tranche Closing, (i) the shares of Common Stock issued upon such conversion shall cease to be deemed Registrable Securities under the IRA and shall not be used, at any time following such conversion, in any calculation of such holder's entitlement under any right of first refusal or co-sale rights to which such holder would otherwise be entitled with respect to shares of the Company's securities; and (ii) such holder shall lose any right it may have had to nominate and have elected a director under the Voting Agreement). For purposes of determining the Pro Rata Amount, all shares of Series D-1 Preferred Stock purchased by Affiliates (as defined below) of such holder in the Third Tranche shall be aggregated with such holder's shares (provided that no shares or securities shall be attributable to more than one entity or person within any such group of affiliated entities or persons and the Applicable Portion shall be calculated with respect to each such holder alone without reference to its Affiliates). The conversion described in the foregoing provisions of this ARTICLE IV Section 9(a)(ii) is referred to as a "**Fourth Tranche Special Mandatory Conversion,**" and, together with a Qualified Financing Special Mandatory Conversion, the "**Special Mandatory Conversions,**" and, each a "**Special Mandatory Conversion.**"

(b) **Procedural Requirements.** Upon a Special Mandatory Conversion, each holder of shares of Preferred Stock converted pursuant to subsection 9(a) shall be sent written notice of such Special Mandatory Conversion and the place designated for mandatory conversion of all such shares of Preferred Stock. Upon receipt of such notice, each holder of such shares of Preferred Stock shall surrender his, her or its certificate or certificates for all such shares (or, if

such holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate) to the Corporation at the place designated in such notice. If so required by the Corporation, certificates surrendered for conversion shall be endorsed or accompanied by written instrument or instruments of transfer, in form satisfactory to the Corporation, duly executed by the registered holder or by his, her or its attorney duly authorized in writing. As soon as practicable after the Special Mandatory Conversion and the surrender of the certificate or certificates (or lost certificate affidavit and agreement) for Preferred Stock so converted, the Corporation shall issue and deliver to such holder, or to his, her or its nominees, a certificate or certificates for the number of full shares of Common Stock issuable on such conversion in accordance with the provisions hereof, together with cash as provided in subsection 3(f) above in lieu of any fraction of a share of Common Stock otherwise issuable upon such conversion, the payment of any declared but unpaid dividends on the shares of Preferred Stock converted and a new certificate for the number of shares, if any, of Preferred Stock represented by such surrendered certificate and not converted pursuant to subsection 9(a). Such converted Preferred Stock shall be retired and cancelled and may not be reissued as shares of such series, and the Corporation may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of Preferred Stock accordingly. Notwithstanding anything in this Section to the contrary, upon the occurrence of a Special Mandatory Conversion, the conversion into Common Stock of (x) shares of Preferred Stock held by a Major Investor who does not purchase its full Pro Rata Amount of a Qualified Financing or (y) shares of Series D-1 Preferred Stock held by a holder of Series D-1 Preferred who does not purchase its full Pro Rata Amount of the Fourth Tranche shall occur automatically without any further action by the holders of such shares and whether or not the certificates representing such shares are surrendered to the Corporation or its transfer agent; provided, however, that the Corporation shall not be obligated to issue certificates evidencing the shares of Common Stock issuable upon such conversion unless either the certificates evidencing such shares of Preferred Stock are delivered to the Corporation or its transfer agent as provided above, or the holder notifies the Corporation or its transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the Corporation to indemnify the Corporation against any loss incurred by it in connection with such certificates.

(c) **Definitions.** For purposes of this Section 9, the following definitions shall apply:

(i) "**Affiliate**" shall mean, with respect to any Major Investor that is a partnership, corporation, limited liability company or other entity, (A) all Associated Entities (as defined below) of such Major Investor (as defined below), and (B) all current or former constituent limited or general partners, and all stockholders or current or former members of the Major Investor and any Associated Entities of the Major Investor. The term "**Associated Entity**" shall include any entity that is (X) a direct or indirect subsidiary or parent of a Major Investor or (Y) with respect to a Major Investor that is a limited liability company or a limited liability partnership, (i) the manager, managing member, general partner or management company of such Major Investor or (ii) a fund or entity managed by the same manager, managing member, general partner or management company or by an entity controlling, controlled by, or under

common control with such manager, managing member, general partner or management company. For a Major Investor that is an individual, the term "Affiliate" shall also include all "**Family Members**" of the Major Investor, which shall include the Major Investor's children, stepchildren, grandchildren, parents, stepparents, grandparents, spouse, siblings, mothers-in-law, fathers-in-law, sons-in-law, daughters-in-law, brothers-in-law and sisters-in-law (including adoptive relationships) as well as any estate-planning related trusts for the benefit of the Major Investor and/or any of the foregoing persons.

(ii) "**Applicable Portion**" shall mean, with respect to any Major Investor, (a) for the purposes of the First Closing of the Third Tranche and the Second Closing of the Third Tranche only (each as defined in the 2014 Series D-1 Purchase Agreement, and collectively, the "**Third Tranche Closings**", which together, in the aggregate, constitute a Qualified Financing), a number of shares of Preferred Stock calculated by multiplying the aggregate number of shares of Preferred Stock held by such holder immediately prior to the First Closing of the Third Tranche by a fraction, the numerator of which is equal to the amount, if positive, by which such holder's Pro Rata Amount exceeds the number of Series D-1 Preferred Stock actually purchased by such holder in such Qualified Financing, and the denominator of which is equal to such holder's Pro Rata Amount, and (b) for the purposes of any Qualified Financing governed by ARTICLE IV Section 9(a)(i) of this Certificate of Incorporation (other than transactions contemplated in preceding clause (a)), a number of shares of Preferred Stock calculated by multiplying the aggregate number of shares of Preferred Stock held by such holder immediately prior to a Qualified Financing by a fraction, the numerator of which is equal to the amount, if positive, by which such holder's Pro Rata Amount exceeds the number of Offered Securities actually purchased by such holder in such Qualified Financing, and the denominator of which is equal to such holder's Pro Rata Amount. If less than all of the Preferred Stock held by a holder is to be converted and the holder holds shares of multiple series of Preferred Stock, the shares to be converted from each series of Preferred Stock shall be calculated by multiplying the Applicable Portion by a fraction, the numerator of which is equal to the number of shares of Preferred Stock of the applicable series held by such holder and the denominator of which is equal to the aggregate number of shares of Preferred Stock of all series held by such holder.

(iii) "**Major Investor**" shall have the meaning given such term in the IRA.

(iv) "**Offered Securities**" shall mean the equity securities of the Corporation being offered by the Corporation for purchase in connection with a Qualified Financing, excluding the warrants issuable pursuant to the 2014 Series D-1 Purchase Agreement.

(v) "**Pro Rata Amount**" shall mean, (a) with respect to the Third Tranche Closings, the number of shares of Series D-1 Preferred Stock calculated by multiplying an aggregate number of Offered Securities equal to 31,355,360 (which number is equal to the number of shares of Series D-1 Preferred Stock that are issuable in a \$4,650,000 offering at the Original Series D-1 Price) by a fraction, the numerator of which is equal to the number of shares of Preferred Stock (on an as-converted basis, but excluding shares of Preferred Stock issuable upon the exercise of warrants) owned by the applicable Major Investor immediately prior to the First Closing of the Third Tranche, and the denominator of which is equal to the aggregate

number of outstanding shares of Preferred Stock (on an as-converted basis, but excluding shares of Preferred Stock issuable upon the exercise of warrants) immediately prior to the First Closing of the Third Tranche (the "*Third Tranche Closings Pro Rata Amount*"), (b) with respect to any Qualified Financing governed by ARTICLE IV Section 9(a)(i) of this Certificate of Incorporation (other than the transactions contemplated in preceding clause (a)), a number of Offered Securities calculated by multiplying the aggregate number of Offered Securities by a fraction, the numerator of which is equal to the number of shares of Preferred Stock (on an as-converted basis and including shares of Preferred Stock issuable upon the exercise of warrants) then owned by the applicable Major Investor, and the denominator of which is equal to the aggregate number of then outstanding shares of Preferred Stock (on an as-converted basis and including shares of Preferred Stock issuable upon the exercise of warrants), and (c) with respect to the Fourth Tranche Closing governed by ARTICLE IV Section 9(a)(ii) of this Certificate of Incorporation, for holders who held shares of the Company's Preferred Stock prior to the First Closing of the Third Tranche, that number of shares of Series D-1 Preferred Stock such that the aggregate number of Series D-1 Preferred Stock purchased in the Third Tranche Closings and the Fourth Tranche Closing by such holder is at least twice such holder's Third Tranche Closings Pro Rata Amount, and for holders who did not hold shares of the Company's Preferred Stock prior to the First Closing of the Third Tranche, that number of shares of Series D-1 Preferred Stock equal to the number of shares of Series D-1 Preferred Stock purchased in the Third Tranche Closings.

(vi) "*Qualified Financing*" shall mean any transaction involving the issuance or sale of Additional Shares of Common Stock after the date of filing of this Eleventh Amended and Restated Certificate of Incorporation that would result in the reduction of the Conversion Price of the Series C-1 Preferred Stock pursuant to the terms of this Eleventh Amended and Restated Certificate of Incorporation (without giving effect to the operation of Sections 3(d)(iii)(D) of this Article IV above), unless the holders of a majority of the outstanding shares of Preferred Stock elects that such transaction not be treated as a Qualified Financing for purposes of this Section 9. For the avoidance of doubt, the First Closing of the Third Tranche and the Second Closing of the Third Tranche together in the aggregate constitute a Qualified Financing and the consummation of such Qualified Financing shall be the date on which the Second Closing of the Third Tranche occurs. The Fourth Tranche Closing shall be governed by ARTICLE IV Section 9(a)(ii) of this Certificate of Incorporation and shall not be governed by ARTICLE IV Section 9(a)(i) of this Certificate of Incorporation.

(vii) "*Voting Agreement*" shall mean the Fourth Amended and Restated Voting Agreement, as may be amended, by and among the Corporation and the investors signatory thereto.

ARTICLE V

The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors of the Corporation. In addition to the powers and authority expressly conferred upon them by statute or by this Eleventh Amended and Restated Certificate of Incorporation or the Bylaws of the Corporation, the directors are hereby empowered to exercise all such powers and do all such acts and things as may be exercised or done by the Corporation. Election of directors need not be by written ballot, unless the Bylaws so provide.

ARTICLE VI

The Board of Directors of the Corporation is authorized to make, adopt, amend, alter or repeal the Bylaws of the Corporation. The stockholders shall also have power to make, adopt, amend, alter or repeal the Bylaws of the Corporation.

ARTICLE VII

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

The Corporation shall have the power to indemnify, to the extent permitted by the General Corporation Law, as it presently exists or may hereafter be amended from time to time, any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (a "*Proceeding*") by reason of the fact that he or she is or was a director, officer, employee or agent of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with any such Proceeding.

The Corporation is authorized to provide indemnification of agents (as defined in Section 317 of the California Corporations Code) through bylaw provisions, agreements with agents, vote of shareholders or disinterested directors, or otherwise, in excess of the indemnification otherwise permitted by Section 317 of the California Corporations Code, subject only to the applicable limits on indemnification set forth in Sections 204 and 317 of the California Corporations Code with respect to actions for breach of duty to the Corporation or its stockholders, to the extent the Corporation is subject to those provisions pursuant to Section 2115 of the California Corporations Code. Any repeal or modification of the foregoing provisions of this Article VII by the stockholders of the Corporation shall not adversely affect any right or protection of a director of the Corporation existing at the time of, or increase the liability of any director of the Corporation with respect to any acts or omissions occurring prior to, such repeal or modification.

No stockholder of the Corporation that is an institutional investor shall be liable to the Corporation for any claim arising out of, or based upon, (i) investment in any entity competitive to the Corporation, or (ii) actions taken by any partner, officer or other representative of such institutional investor to assist such competitive company, whether or not such action was taken as a member of the board of directors of such competitive company or otherwise; provided, however, that nothing herein shall relieve any investor from liability associated with the misuse of the Corporation's confidential information.

13777.012 2836715v8

ARTICLE VIII

To the extent permitted by law, the Corporation renounces any interest or expectancy of the Corporation in, or in being offered an opportunity to participate in, any Excluded Opportunity and waives any claim that the Excluded Opportunity constitutes an opportunity that should have been presented by the Covered Person to the Corporation. An "*Excluded Opportunity*" is any manner, transaction or interest that is presented to, or acquired, created or developed by, or which otherwise comes into the possession of, (i) any director of the Corporation who is not an employee of the Corporation or any of its subsidiaries, or (ii) any holder of Preferred Stock or any partner, member, director, stockholder, employee or agent of any such holder, other than someone who is an employee of the Corporation or any of its subsidiaries (collectively, "*Covered Persons*"), unless such matter, transaction or interest is presented to, or acquired, created or developed by, or otherwise comes into the possession of, a Covered Person expressly and solely in such Covered Person's capacity as director of the Corporation.

ARTICLE IX

Subject to any additional vote required by this Certificate of Incorporation, the Corporation reserves the right to amend or repeal any of the provisions contained in this Certificate of Incorporation in the manner now or hereafter permitted by law, and the rights of the stockholders of the Corporation are granted subject to this reservation.

IN WITNESS WHEREOF, this Eleventh Amended and Restated Certificate of Incorporation has been executed by the Chief Executive Officer of the Corporation this 24th day of June, 2014.

JIWIRE, INC.

By: /s/ Michael Fordyce
Michael Fordyce
Chief Executive Officer