

## TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1  
Stylesheet Version v1.2

ETAS ID: TM336007

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT		
<b>NATURE OF CONVEYANCE:</b>	CHANGE OF NAME		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
Airmall USA Holdings Inc.		06/13/2014	CORPORATION: DELAWARE
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	Airmall Inc.		
<b>Street Address:</b>	P.O. Box 12318		
<b>Internal Address:</b>	Pittsburgh International Airport		
<b>City:</b>	Pittsburgh		
<b>State/Country:</b>	PENNSYLVANIA		
<b>Postal Code:</b>	15231-0318		
<b>Entity Type:</b>	CORPORATION: DELAWARE		
<b>PROPERTY NUMBERS Total: 7</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Registration Number:</b>	1890145	AIRMALL	
<b>Registration Number:</b>	2066297	AIRMALL	
<b>Registration Number:</b>	2071113	GUARANTEED DOWN-TO-EARTH PRICES	
<b>Registration Number:</b>	2559336	AIRMALL TO-GO	
<b>Registration Number:</b>	3723932	REGULAR MALL PRICES GUARANTEED	
<b>Registration Number:</b>	3745879	AIRMALL REGULAR MALL PRICES GUARANTEED!	
<b>Registration Number:</b>	3769854	AIRMALL REGULAR MALL PRICES GUARANTEED!	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	3367338473		
<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>			
<b>Phone:</b>	(336) 721-3522		
<b>Email:</b>	trademarkswinston@wcsr.com		
<b>Correspondent Name:</b>	Christine S. Beaman		
<b>Address Line 1:</b>	Womble Carlyle Sandridge & Rice, LLP		
<b>Address Line 2:</b>	One West Fourth Street		
<b>Address Line 4:</b>	Winston-Salem, NORTH CAROLINA 27101		
<b>ATTORNEY DOCKET NUMBER:</b>	62849.0003.9		
<b>NAME OF SUBMITTER:</b>	Christine S. Beaman		

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<b>SIGNATURE:</b>	/Christine S. Beaman/
<b>DATE SIGNED:</b>	03/24/2015
<b>Total Attachments: 10</b> source=Airmall - Certificate of Amendment and Restatement #page1.tif source=Airmall - Certificate of Amendment and Restatement #page2.tif source=Airmall - Certificate of Amendment and Restatement #page3.tif source=Airmall - Certificate of Amendment and Restatement #page4.tif source=Airmall - Certificate of Amendment and Restatement #page5.tif source=Airmall - Certificate of Amendment and Restatement #page6.tif source=Airmall - Certificate of Amendment and Restatement #page7.tif source=Airmall - Certificate of Amendment and Restatement #page8.tif source=Airmall - Certificate of Amendment and Restatement #page9.tif source=Airmall - Certificate of Amendment and Restatement #page10.tif	

CERTIFICATE OF  
AMENDMENT AND RESTATEMENT OF THE  
CERTIFICATE OF INCORPORATION

OF

AIRMAIL USA HOLDINGS INC.

Airmall USA Holdings Inc., a corporation organized and existing under the General Corporation Law of the State of Delaware (the "Corporation"), DOES HEREBY CERTIFY:

FIRST: The original Certificate of Incorporation of the Corporation was filed with the Secretary of State of Delaware on July 17, 1991, under the name "BAA (USA), Inc."

SECOND: On March 8, 1993, the Certificate of Incorporation of the Corporation was amended to change the name of the Corporation from "BAA (USA), Inc." to "BAA USA (Holdings), Inc."

THIRD: On August 20, 2010, the Certificate of Incorporation of the Corporation was amended to change the name of the Corporation from "BAA USA (Holdings), Inc." to "Airmall USA Holdings Inc."

FOURTH: The Amended and Restated Certificate of Incorporation of the Corporation in the form attached hereto as Exhibit A has been duly adopted in accordance with the provisions of Sections 245 and 242 of the General Corporation Law of the State of Delaware (the "DGCL") by the directors and stockholders of the Corporation.

FIFTH: The Amended and Restated Certificate of Incorporation so adopted reads in full as set forth in Exhibit A attached hereto and is hereby incorporated herein by this reference.

IN WITNESS WHEREOF, the Corporation has caused this Certificate to be executed in its name this 13<sup>th</sup> day of June, 2014.

Airmall USA Holdings Inc.

By: 

Name: BRANDON B. BLYLOCK  
Title: PRESIDENT AND CEO

**EXHIBIT A**  
**AMENDED AND RESTATED**  
**CERTIFICATE OF INCORPORATION**  
**OF**  
**AIRMALL INC.**

**ARTICLE I:** The name of the corporation (the "Corporation") shall be:

Airmall Inc.

**ARTICLE II:** The registered office of this Corporation in the State of Delaware is Suite 1300, 1105 N. Market Street, County of New Castle, Wilmington, DE 19801, and its registered agent at that address is Wilmington Trust SP Services, Inc.

**ARTICLE III:** The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the DGCL.

**ARTICLE IV:** The amount of the authorized capital stock of the Corporation is Eleven Thousand (11,000), of which (i) One Thousand (1,000) shares shall be preferred stock, par value \$1.00 per share (the "Preferred Stock"), and (ii) Ten Thousand (10,000) shares shall be common stock, par value \$1.00 per share (the "Common Stock").

The voting powers, designations, preferences, powers and relative, participating, optional or other special rights, and the qualifications, limitations or restrictions of each class of capital stock of the Corporation, shall be as provided in this Article IV.

**A. 8.0% SERIES A REDEEMABLE PREFERRED STOCK**

**Section 1. Designation and Number.** A series of Preferred Stock, designated the "8.0% Series A Redeemable Preferred Stock" (the "Series A Preferred Stock"), is hereby established. The total number of authorized shares of Series A Preferred Stock shall be One Hundred (100).

**Section 2. Rank.** The Series A Preferred Stock shall, with respect to dividend and redemption rights and rights upon liquidation, dissolution or winding up of the Corporation, rank senior to all Common Stock.

**Section 3. Dividends.**

Section 3.1. Each holder of the then outstanding shares of Series A Preferred Stock shall be entitled to receive, when and as authorized by the Board of Directors of the Corporation, out of funds legally available for the payment of dividends, cumulative preferential cash dividends at the rate of 8.0% per annum on the total of \$1,000.00 per share plus all accumulated and unpaid dividends thereon. Such dividends shall accrue on a daily basis and be cumulative from the first date on which any share of Series A Preferred Stock is issued, such issue date to be contemporaneous with the receipt by the Corporation of subscription funds for the Series A



Preferred Stock, and shall be payable when, as and if declared by the Board of Directors of the Corporation, out of any funds and assets of the Corporation legally available therefor.

Section 3.2. No dividends on shares of Series A Preferred Stock shall be declared by the Corporation or paid or set apart for payment by the Corporation at such time as the terms and provisions of any written agreement between the Corporation and any party that is not an affiliate of the Corporation, including any agreement relating to its indebtedness, prohibit such declaration, payment or setting apart for payment or provide that such declaration, payment or setting apart for payment would constitute a breach thereof or a default thereunder, or if such declaration or payment shall be restricted or prohibited by law. For purposes of this Amended and Restated Certificate of Incorporation, "affiliate" shall mean any party that controls, is controlled by or is under common control with the Corporation.

Section 3.3. Notwithstanding the foregoing, dividends on the Series A Preferred Stock shall accrue whether or not the terms and provisions set forth in Section 3.2 of this Section A at any time prohibit the current payment of dividends, whether or not the Corporation has earnings, whether or not there are funds legally available for the payment of such dividends and whether or not such dividends are authorized or declared.

Section 3.4. Unless full cumulative dividends on all outstanding shares of the Series A Preferred Stock have been or contemporaneously are declared and paid or declared and a sum sufficient for the payment thereof is set apart for payment for all past dividend periods, no dividends (other than in Common Stock) shall be declared or paid or set aside for payment nor shall any other distribution be declared or made upon any Common Stock, nor shall any Common Stock be redeemed, purchased or otherwise acquired for any consideration (or any moneys be paid to or made available for a sinking fund for the redemption of any such shares) by the Corporation (except by conversion into or exchange for other Common Stock).

Section 3.5. When dividends are not paid in full (or a sum sufficient for such full payment is not set apart) on the Series A Preferred Stock, all dividends declared upon the Series A Preferred Stock shall be declared and paid pro rata based on the number of shares of Series A Preferred Stock then outstanding.

Section 3.6. Any dividend payment made on shares of the Series A Preferred Stock shall first be credited against the earliest accumulated but unpaid dividend due with respect to such shares which remains payable. Holders of the Series A Preferred Stock shall not be entitled to any dividend, whether payable in cash, property or shares, in excess of full cumulative dividends on the Series A Preferred Stock as described above.

#### **Section 4. Liquidation Preference.**

Section 4.1. Upon any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation, the holders of shares of Series A Preferred Stock then outstanding are entitled to be paid, or have the Corporation declare and set aside for payment, out of the assets of the Corporation legally available for distribution to its stockholders, a liquidation preference equal to the sum of the following: (i) \$1,000.00 per share, plus (ii) all accumulated and unpaid dividends thereon through and including the date of payment, before any distribution

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of assets is made to holders of any Common Stock (collectively, the "Liquidation Preference"). In the event that the Corporation elects to set aside the Liquidation Preference for payment, the Series A Preferred Stock shall remain outstanding until the holders thereof are paid the full Liquidation Preference, which payment shall be made no later than immediately prior to the Corporation making its final liquidating distribution on the Common Stock.

Section 4.2. In the event that, upon any such voluntary or involuntary liquidation, dissolution or winding up, the available assets of the Corporation are insufficient to pay the full amount of the Liquidation Preference on all outstanding shares of Series A Preferred Stock, then the holders of the Series A Preferred Stock shall share ratably in any such distribution of assets in proportion to the full Liquidation Preference to which they would otherwise be respectively entitled.

Section 4.3. After payment of the full amount of the Liquidation Preference to which they are entitled, the holders of Series A Preferred Stock will have no right or claim to any of the remaining assets of the Corporation.

Section 4.4. Upon the Corporation's provision of written notice as to the effective date of any such liquidation, dissolution or winding up of the Corporation, accompanied by a check in the amount of the full Liquidation Preference to which each record holder of the Series A Preferred Stock is entitled, the Series A Preferred Stock shall no longer be deemed outstanding shares of the Corporation and all rights of the holders of such shares will terminate. Such notice shall be given to each record holder of the Series A Preferred Stock at the respective mailing or email addresses of such holders as the same shall appear on the share transfer records of the Corporation.

#### **Section 5. Redemption.**

Section 5.1. Right of Optional Redemption. Except as set forth in Section 5.7 of this Section A, the Corporation, at its option, may redeem shares of the Series A Preferred Stock, in whole or in part, at any time or from time to time, for cash at a redemption price (the "Redemption Price") equal to \$1,000.00 per share plus all accumulated and unpaid dividends thereon to and including the date fixed for redemption (except as provided in Section 5.3 of this Section A). If less than all of the outstanding shares of Series A Preferred Stock are to be redeemed, the shares of Series A Preferred Stock to be redeemed may be selected by any equitable method determined by the Corporation provided that such method does not result in the creation of fractional shares. Any shares of Series A Preferred Stock that shall at any time have been redeemed or otherwise acquired by the Corporation shall, after such redemption or acquisition, have the status of authorized but unissued shares of Series A Preferred Stock which may be issued by the Board of Directors of the Corporation from time to time at its discretion.

Section 5.2. Limitations on Redemption. Unless full cumulative dividends on all shares of Series A Preferred Stock shall have been, or contemporaneously are, declared and paid or declared and a sum sufficient for the payment thereof set apart for payment for all past dividend periods, no shares of Series A Preferred Stock shall be redeemed or otherwise acquired, directly or indirectly, by the Corporation, and the Corporation shall not purchase or otherwise acquire, directly or indirectly, any Common Stock of the Corporation (except by exchange for Common



Stock); provided, however, that the foregoing shall not prevent the purchase or acquisition of shares of Series A Preferred Stock pursuant to a purchase or exchange offer made on the same terms to holders of all outstanding shares of Series A Preferred Stock.

Section 5.3. Rights to Dividends on Shares Called for Redemption. Immediately prior to or upon any redemption of Series A Preferred Stock, the Corporation shall pay, in cash, any accumulated and unpaid dividends to and including the redemption date, unless a redemption date falls after a dividend record date and prior to the corresponding dividend payment date, in which case each holder of Series A Preferred Stock at the close of business on such dividend record date shall be entitled to the dividend payable on such shares on the corresponding dividend payment date notwithstanding the redemption of such shares before such dividend payment date.

#### Section 5.4. Procedures for Redemption.

(i) Upon the Corporation's provision of written notice as to the effective date of the redemption, accompanied by a check in the amount of the full Redemption Price through such effective date to which each record holder of Series A Preferred Stock is entitled, the Series A Preferred Stock shall be redeemed and shall no longer be deemed outstanding shares of the Corporation and all rights of the holders of such shares will terminate. Such notice shall be given to each record holder of the Series A Preferred Stock at the respective mailing or email addresses of such holders as the same shall appear on the share transfer records of the Corporation. The effective date of the redemption shall be at least one business day after the date of written notice of such redemption. No failure to give such notice or any defect therein or in the mailing thereof shall affect the validity of the proceedings for the redemption of any shares of Series A Preferred Stock except as to the holder to whom notice was defective or not given.

(ii) In addition to any information required by law, such notice shall state: (A) the redemption date; (B) the Redemption Price; (C) the number of shares of Series A Preferred Stock to be redeemed; (D) the place or places where the shares of Series A Preferred Stock are to be surrendered (if so required in the notice) for payment of the Redemption Price (if not otherwise included with the notice); and (E) that dividends on the shares to be redeemed will cease to accrue on such redemption date. If less than all of the Series A Preferred Stock held by any holder is to be redeemed, the notice mailed to such holder shall also specify the number of shares of Series A Preferred Stock held by such holder to be redeemed.

(iii) If notice of redemption of any shares of Series A Preferred Stock has been given and if the funds necessary for such redemption have been set aside by the Corporation for the benefit of the holders of any shares of Series A Preferred Stock so called for redemption, then, from and after the redemption date, dividends will cease to accrue on such shares of Series A Preferred Stock, such shares of Series A Preferred Stock shall no longer be deemed outstanding and all rights of the holders of such shares will terminate, except the right to receive the Redemption Price. If the Corporation shall so require and the notice shall so state, holders of Series A Preferred Stock to be redeemed shall surrender the certificates evidencing such Series A Preferred Stock at the place designated in such notice and, upon surrender in accordance with said notice of the certificates for shares of Series A Preferred Stock so redeemed (properly endorsed or assigned for transfer, if the Corporation shall so require and the notice shall so state).



such shares of Series A Preferred Stock shall be redeemed by the Corporation at the Redemption Price. In case less than all of the shares of Series A Preferred Stock evidenced by any such certificate are redeemed, a new certificate or certificates shall be issued evidencing the unredeemed shares of Series A Preferred Stock without cost to the holder thereof.

(iv) The deposit of funds with a bank or trust corporation for the purpose of redeeming Series A Preferred Stock shall be irrevocable except that:

(A) the Corporation shall be entitled to receive from such bank or trust corporation the interest or other earnings, if any, earned on any money so deposited in trust, and the holders of any shares redeemed shall have no claim to such interest or other earnings; and

(B) any balance of monies so deposited by the Corporation and unclaimed by the holders of the Series A Preferred Stock entitled thereto at the expiration of two (2) years from the applicable redemption dates shall be repaid, together with any interest or other earnings thereon, to the Corporation, and after any such repayment, the holders of the shares entitled to the funds so repaid to the Corporation shall look only to the Corporation for payment of the Redemption Price without interest or other earnings.

Section 5.6. Voting Rights. Except as otherwise expressly required by law, each holder of Series A Preferred Stock shall be entitled to vote on all matters submitted to a vote of the holders of Common Stock, including without limitation on the election of directors to the Board of Directors of the Corporation, and shall be entitled to One Hundred Thirty-Four (134) votes per share of Series A Preferred Stock held by such holder; provided, however, that if the holders of all of the outstanding Series A Preferred Stock together with all holders of Common Stock, other than AMU Holdings Inc., have more than 19.9% (the "Threshold Amount") of the total votes attached to all outstanding voting shares of the Corporation outstanding from time to time then each share of Series A Preferred Stock shall have such lesser number of votes per share of Series A Preferred Stock that results in the holders of all of the Series A Preferred Stock, on a pro rata basis, together with all holders of Common Stock, other than AMU Holdings Inc., holding less than the Threshold Amount of votes attached to all outstanding voting shares of the Corporation outstanding from time to time. Except as otherwise expressly provided herein or required by law, the Series A Preferred Stock shall vote together with the Common Stock at any annual or special meeting of the stockholders and not as a separate class, and may act by written consent in the same manner as the Common Stock. The consent of the holders of a majority of the outstanding Series A Preferred Stock, voting as a separate class, shall be required for any amendment to this Amended and Restated Certificate of Incorporation which has an adverse effect on the rights and preferences of the Series A Preferred Stock or which increases the number of authorized or issued shares of Series A Preferred Stock, or any reclassification of the Series A Preferred Stock.

Section 5.7. Mandatory Redemption. Upon any consolidation or merger of the Corporation with or into any other business enterprise or of any other business enterprise with or into the Corporation, or any sale, lease or conveyance of all or substantially all of the assets or business of the Corporation (each, a "Liquidation Event"), the Corporation shall redeem all of the shares of the Series A Preferred Stock outstanding at such time at a redemption price (the





"Mandatory Redemption Price") equal to \$1,100.00 per share plus accumulated and unpaid dividends thereon to and including the date of the closing or consummation of such transaction.

Section 5.8. Conversion. The shares of Series A Preferred Stock are not convertible into or exchangeable for any other property or securities of the Corporation.

## **B. COMMON STOCK**

**Section 1.** Except as otherwise expressly provided herein or required by law, each holder of outstanding shares of Common Stock shall be entitled to one (1) vote in respect of each share of Common Stock held thereby of record on the books of the Corporation for the election of directors and on all matters submitted to a vote of stockholders of the Corporation.

**Section 2.** Dividends. Subject to the prior payment in full of all preferential dividends to which the holders of the Series A Preferred Stock are entitled hereunder, the holders of Common Stock shall be entitled to receive dividends out of funds legally available therefor at such times and in such amounts as the Board of Directors of the Corporation may determine in its sole discretion.

**Section 3.** Liquidation. Upon any Liquidation Event, after the payment or provision for payment of all debts and liabilities of the Corporation and all preferential amounts to which the holders of Series A Preferred Stock are entitled with respect to the distribution of assets in liquidation, including without limitation the Mandatory Redemption Price, the holders of Common Stock shall be entitled to share ratably in the remaining assets of the Corporation available for distribution.

## **ARTICLE V:**

**Section 1.** A director of the Corporation shall not be liable to the Corporation or its stockholders for monetary damages for any breach of fiduciary duty by such director as a director. Notwithstanding the foregoing sentence, a director shall be personally liable to the Corporation, to the extent provided by applicable law, (i) for breach of the director's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) pursuant to Section 174 of the DGCL or (iv) for any transaction from which the director derived an improper personal benefit. No amendment to or repeal of the foregoing sentence by the stockholders of the Corporation shall apply to or have any effect on the liability or alleged liability of any director of the Corporation for or with respect to any acts or omissions of such director occurring prior to such amendment.

**Section 2.** Any repeal or modification of the foregoing provision shall not adversely affect any right or protection of a director of the Corporation existing at the time of such repeal or modification.

**Section 3.** Each person who was or is made a party or is threatened to be made a party or is involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (a "Proceeding"), by reason of the fact that he or she, or a person of whom he or



she is the legal representative, is or was a director or officer of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, whether the basis of such Proceeding is alleged action in an official capacity as a director, officer, employee or agent or in any other capacity while serving as a director, officer, employee or agent, shall be indemnified and held harmless by the Corporation to the fullest extent permitted by the DGCL, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than said law permitted the Corporation to provide prior to such amendment), against all expense, liability and loss (including attorneys' fees, judgments, fines, excise taxes or penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by such person in connection therewith and such indemnification shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of his or her heirs, executors and administrators; provided, however, that, except as provided in Section 4 of this Article V, the Corporation shall indemnify any such person seeking indemnification in connection with a Proceeding (or part thereof) initiated by such person only if such Proceeding (or part thereof) was authorized by the Board of Directors. The right to indemnification conferred in this Section 3 of this Article V shall be a contract right and shall include the right to be paid by the Corporation the expenses incurred in defending any such Proceeding in advance of its final disposition; provided, however, that, if the DGCL so requires, the payment of such expenses incurred by a director or officer in his or her capacity as a director or officer (and not in any other capacity in which service was or is rendered by such person while a director or officer, including, without limitation, service to an employee benefit plan) in advance of the final disposition of a Proceeding, shall be made only upon delivery to the Corporation of an undertaking, by or on behalf of such director or officer, to repay all amounts so advanced if it shall ultimately be determined that such director or officer is not entitled to be indemnified under this Paragraph or otherwise. The Corporation may, by action of its Board of Directors, provide indemnification to employees and agents of the Corporation with the same scope and effect as the foregoing indemnification of directors and officers.

**Section 4.** If a claim under Section 3 of this Article V is not paid in full by the Corporation within thirty (30) days after a written claim has been received by the Corporation, the claimant may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim and, if successful in whole or in part, the claimant shall be entitled to be paid also the expense of prosecuting such claim. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any Proceeding in advance of its final disposition where the required undertaking, if any is required, has been tendered to the Corporation) that the claimant has not met the standards of conduct which make it permissible under the DGCL for the Corporation to indemnify the claimant for the amount claimed, but the burden of proving such defense shall be on the Corporation. Neither the failure of the Corporation (including its Board of Directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the DGCL, nor an actual determination by the Corporation (including its Board of Directors, independent legal counsel, or its stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.

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**Section 5.** The right to indemnification and the payment of expenses incurred in defending a Proceeding in advance of its final disposition conferred in this Article V shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, provision of this Amended and Restated Certificate of Incorporation, bylaw, agreement, vote of stockholders or disinterested directors or otherwise.

**Section 6.** The Corporation shall maintain insurance, at its expense, to protect itself and each person serving as a director or officer of the Corporation or, at the request of the Corporation, of another corporation, partnership, joint venture, trust or other enterprise against any such expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the DGCL.

**ARTICLE VI:** The stockholders and directors shall have the power to hold their meetings, to have an office or offices, to keep the books, documents and papers of the Corporation outside of the State of Delaware at such places as might from time to time be designated by the Corporation's bylaws or resolutions of the directors or stockholders, except as otherwise required by the laws of Delaware.

**ARTICLE VII:**

**Section 1.** No contract or other transaction between the Corporation and any other corporation or other person or entity and no act of the Corporation shall in any way be affected or invalidated by the fact that any of the directors of the Corporation are pecuniarily or otherwise interested in, or are directors of, such other corporation or other person or entity.

**Section 2.** Pursuant to Section 122(17) of the DGCL, the Corporation renounces, to the fullest extent permitted by law, any interest or expectancy of the Corporation or any subsidiary of the Corporation in, or in being offered an opportunity to participate in, any Excluded Opportunity. An "Excluded Opportunity" is any matter, transaction or interest that is presented to, or acquired, created or developed by, or which otherwise comes into the possession of any holder of Series A Preferred Stock or their affiliates (including without limitation any representative or affiliate of such holders serving on the Board of Directors of the Corporation or the board of directors or other governing body of any subsidiary of the Corporation (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 a director of the Corporation. Without limiting the foregoing renunciation, the Corporation on behalf of itself and its subsidiaries (a) acknowledges that the Covered Persons are in the business of making investments in, and have or may have investments in, other businesses similar to and that may compete with the businesses of the Corporation and its subsidiaries ("Competing Businesses") and (b) agrees that the Covered Parties shall have the unfettered right to make investments in or have relationships with other Competing Businesses independent of their investments in the Corporation. By virtue of a Covered Person holding capital stock of the Corporation or by having persons designated by or affiliated with such Covered Person serving on or observing at meetings of any board of directors or otherwise, no Covered Person shall have any obligation to the Corporation, any of its subsidiaries or any other holder of capital stock or securities of the Corporation to refrain from competing with the Corporation and any of its subsidiaries, making investments in or having

relationships with Competing Businesses, or otherwise engaging in any commercial activity, and none of the Corporation, any of its subsidiaries or any other holder of capital stock or securities of the Corporation or any of its subsidiaries shall have any right with respect to any investment or activities undertaken by such Covered Person. Without limitation of the foregoing, each Covered Person may engage in or possess any interest in other business ventures of any nature or description, independently or with others, similar or dissimilar to the business of the Corporation or any of its subsidiaries, and none of the Corporation, any of its subsidiaries or any other holder of capital stock or securities of the Corporation or any of its subsidiaries shall have any rights or expectancy by virtue of such Covered Parties' relationships with the Corporation, or otherwise in and to such independent ventures or the income or profits derived therefrom; and the pursuit of any such ventures, even if such investment is in a Competing Business, shall not for any purpose be deemed wrongful or improper. No Covered Person shall be obligated to present any particular investment opportunity to the Corporation or its subsidiaries, even if such opportunity is of a character that, if presented to the Corporation or such subsidiary, could be taken by the Corporation or such subsidiary, and each Covered Person shall continue to have the right for its own respective account or to recommend to others any such particular investment opportunity.

**ARTICLE VIII:** Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall be the sole and exclusive forum for (A) any derivative action or proceeding brought on behalf of the Corporation, (B) any action or proceeding asserting a claim of breach of a fiduciary duty owed by any director or officer of the Corporation to the Corporation or the Corporation's stockholders, (C) any action or proceeding asserting a claim against the Corporation arising pursuant to any provision of the DGCL, this Amended and Restated Certificate of Incorporation or the Corporation's bylaws, or (D) any action or proceeding asserting a claim against the Corporation governed by the internal affairs doctrine.

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