

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM729638

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	ENTITY CONVERSION		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Heading Health LLC		11/22/2021	Limited Liability Company: DELAWARE
RECEIVING PARTY DATA			
Name:	Heading Health Inc.		
Street Address:	3001 Bee Cave Rd., Suite 220		
City:	Austin		
State/Country:	TEXAS		
Postal Code:	78746		
Entity Type:	Corporation: DELAWARE		
PROPERTY NUMBERS Total: 2			
Property Type	Number	Word Mark	
Serial Number:	90764850		
Serial Number:	90764817	HEADING	
CORRESPONDENCE DATA			
Fax Number:			
<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:	6468338454		
Email:	steiner@meistersteiner.com		
Correspondent Name:	David Steiner		
Address Line 1:	126 W 22nd St Ste 2S		
Address Line 4:	New York, NEW YORK 10011		
NAME OF SUBMITTER:	David Steiner		
SIGNATURE:	/David Steiner/		
DATE SIGNED:	05/23/2022		
Total Attachments: 29			
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State of Delaware
Secretary of State
Division of Corporations
Delivered 10:42 AM 11/22/2021
FILED 10:42 AM 11/22/2021
SR 20213863039 - File Number 3584421

STATE OF DELAWARE
CERTIFICATE OF CONVERSION
FROM A LIMITED LIABILITY COMPANY TO A
CORPORATION PURSUANT TO SECTION 265 OF
THE DELAWARE GENERAL CORPORATION LAW

- 1.) The jurisdiction where the Limited Liability Company first formed is Delaware.
- 2.) The jurisdiction immediately prior to filing this Certificate is Delaware.
- 3.) The date the Limited Liability Company first formed is 9/2/2020.
- 4.) The name of the Limited Liability Company immediately prior to filing this Certificate is HEADING HEALTH LLC.
- 5.) The name of the Corporation as set forth in the Certificate of Incorporation is HEADING HEALTH INC.

IN WITNESS WHEREOF, the undersigned being duly authorized to sign on behalf of the converting Limited Liability Company have executed this Certificate on the 22nd day of November, A.D. 2021.

DocuSigned by:
By: Benjamin Goldman
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Name: Benjamin Goldman
Print or Type

Title: Manager, CFO
Print or Type

**PLAN OF CONVERSION
OF
HEADING HEALTH LLC
INTO
HEADING HEALTH INC.**

This Plan of Conversion (this “**Plan**”), dated as of November 22, 2021, is hereby adopted and approved by Heading Health LLC, a Delaware limited liability company (the “**Company**”), in order to set forth the terms, conditions and procedures governing the conversion of the Company into a Delaware corporation pursuant to Section 18-216 of the Delaware Limited Liability Company Act (as amended, the “**LLC Act**”) and Section 265 of the Delaware General Corporation Law (as amended, the “**Corporation Law**”).

WHEREAS, the Company is a limited liability company formed and existing under the laws of the State of Delaware; and

WHEREAS, the internal affairs of the Company and the conduct of its business are governed by that certain Amended and Restated Limited Liability Company Agreement of dated as of October 10, 2020 (the “**LLC Agreement**”); and

WHEREAS, the LLC Board has determined that it is in the best interests of the Company and its members for the Company to convert into a Delaware corporation pursuant to Section 18-216 of the LLC Act and Section 265 of the Corporation Law upon the terms and conditions and in accordance with the procedures set forth herein, and the LLC Board has authorized and approved the Conversion and the execution, delivery and filing of any and all instruments, certificates and documents necessary or desirable in connection therewith; and

WHEREAS, pursuant to Section 18-216 of the LLC Act, the holders of more than fifty percent (50%) of each of the outstanding Units in each class have approved the Certificate of Incorporation of the Delaware corporation.

NOW, THEREFORE, The Company does hereby adopt this Plan to effectuate the conversion of the Company into a Delaware corporation as follows:

1. Conversion; Effect of Conversion. Upon and subject to the terms and conditions of this Plan and pursuant to the relevant provisions of the LLC Act and the Corporation Law, including, without limitation, Section 18-216 of the LLC Act and Section 265 of the Corporation Law, respectively, the Company shall convert (referred to herein as the “**Conversion**”) into a Delaware corporation named “Heading Health Inc.” (the “**Corporation**”) at the Effective Time (as defined below). The Corporation shall thereafter be subject to all of the provisions of the Corporation Law, except that notwithstanding Section 106 of the Corporation Law, the existence of the Corporation shall be deemed to have commenced on the date the Company commenced (or is deemed to have commenced) its existence. The Conversion shall not be deemed to affect any obligations or liabilities of the Company incurred prior to the Effective Time or the personal liability of any person incurred prior thereto. The Company shall not be required to wind up its affairs or pay its liabilities and distribute its assets, and the Conversion shall not be deemed to constitute a

dissolution of the Company and shall constitute a continuation of the existence of the Company in the form of a Delaware corporation. Upon the Effective Time, all of the rights, privileges and powers of the Company, and all property and all debts due to the Company, as well as all other things and causes of action belonging to the Company, shall be vested in the Corporation and shall thereafter be the property of the Corporation, as they were of the Company, and all rights of creditors and all liens upon any property of the Company shall be preserved unimpaired, and all debts, liabilities and duties of the Company shall thereafter attach to the Corporation and may be enforced against it to the same extent as if such debts, liabilities and duties had been incurred or contracted by it.

2. Certificate of Conversion; the Corporation Charter Documents; Effective Time. Subject to the terms and conditions hereof, and in accordance with the LLC Act and the LLC Agreement, the LLC shall be converted into the Corporation from and after the filing with the Secretary of State of Delaware of: (a) a duly executed Certificate of Conversion, substantially in the form of Exhibit A attached hereto (the “**Certificate of Conversion**”), and (b) a duly executed Certificate of Incorporation of the Corporation, substantially in the form of Exhibit B attached hereto (the “**Certificate of Incorporation**” and together with the Certificate of Conversion, the “**Charter Document**”). Subject to the foregoing, the Conversion shall be effective upon the filing of (i) the Certificate of Conversion and (ii) the Corporation Charter Documents with the Secretary of State of the State of Delaware (the “**Effective Time**”).

3. Governance and Other Matters Related to the Corporation.

a. Bylaws. At the Effective Time, the By-Laws of the Corporation shall be as set forth in Exhibit C attached hereto (the “**Bylaws**”) and shall be adopted as such by the Board of Directors of the Corporation.

b. Stockholders’ Agreement. In addition to the Corporation Charter Documents and Bylaws, the internal affairs of the Corporation, and the conduct of its business shall also be governed by a Stockholders’ Agreement, substantially in the form of Exhibit D attached hereto (the “**Stockholders’ Agreement**”), which shall be effective at the Effective Time. The Stockholders’ Agreement shall be executed by each of the former members of the Company and each such former member shall deliver an executed signature page (the “**Stockholders’ Agreement Signature Page**”) prior to receiving certificates evidencing the shares to which such former member is entitled to receive in connection with the Conversion pursuant to Section 4(e) of this Plan. In the event that any such former member does not deliver a duly executed Stockholders’ Agreement Signature Page to the Corporation prior to the Effective Time (or such other time as may be determined by the Corporation) (such member referred to herein as a “**Defaulting Member**”), then the Corporation may take any and all actions it deems necessary or appropriate to ensure that the shares of stock of the Corporation to be delivered to such Defaulting Member have substantially the same rights, preferences and obligations as were applicable to such Defaulting Member’s units in the Company and as are applicable to the other stockholders of the Corporation holding similar securities.

c. Directors and Officers. The directors and officers of the Corporation immediately after the Effective Time shall be those individuals who were serving as managers and officers,

respectively, of the Company, as stated on Exhibit E attached hereto. The Company and, after the Effective Time, the Corporation and its Board of Directors shall take such actions to cause each of such individuals to be appointed as a director and/or officer, as the case may be of the Corporation

4. Effect of the Conversion on the Equity Securities of the Company. Subject to the terms and conditions of this Plan, at the Effective Time, automatically by virtue of the Conversion and without any further action on the part of the Company, the Corporation or any equityholder thereof, the common and preferred units of the Company (collectively “**Units**”) and rights to acquire Units shall be converted as follows:

a. Conversion of Common Units.

i. Each issued and outstanding Common Unit of the Company (collectively, the “**Common Units**”) shall automatically, without any further action on the part of the holder or the payment of any additional consideration, convert into one (1) validly issued, fully paid and nonassessable share of the Corporation common stock, par value \$0.001 per share (the “**Common Stock**”). All such shares of Common Stock will be duly issued, fully paid and nonassessable. Following the Effective Time, all Common Units of the Company shall no longer be outstanding and shall automatically be canceled and retired and shall cease to exist, and each holder of a Common Unit immediately prior to the Effective Time shall cease to have any rights with respect thereto, except the right to receive shares of the Common Stock as provided herein.

ii. Each issued and outstanding Common Unit that is subject to repurchase and vesting restrictions pursuant to restricted unit agreements immediately prior to the Effective Time (the “**Restricted Units**”), if any, shall automatically convert into shares of Common Stock pursuant to Section 4(a)(i) which shall remain subject to the repurchase and vesting restrictions applicable to the Restricted Units in effect immediately prior to the Effective Time (such shares, the “**Restricted Shares**”). Following the Effective Time, the Corporation shall hold the Restricted Shares in escrow and each owner of Restricted Shares shall enter into an escrow agreement with the Corporation, which escrow shall apply to the Restricted Shares until the repurchase and vesting restrictions on such Restricted Shares have lapsed.

b. Preferred Units. Each issued and outstanding Series A Preferred Unit and Series Seed Preferred Unit (collectively, the “**Preferred Units**”) shall automatically, without any further action on the part of the holder or the payment of any additional consideration, convert into one (1) validly issued, fully paid and nonassessable share of the Corporation Series A preferred stock and Series Seed preferred stock, respectively, the par value of each of which shall be \$0.001 and \$0.001 per share, respectively, and each of which shall have the rights, powers and preferences set forth in the Certificate of Incorporation (collectively, the “**Preferred Stock**” and, together with the Common Stock, the “**Capital Stock**”). All such shares of Preferred Stock will be duly issued, fully paid and nonassessable. Following the Effective Time, all Preferred Units of the Company shall no longer be outstanding and shall automatically be canceled and retired and shall cease to exist, and each holder of a Preferred Unit immediately prior to the Effective Time shall cease to have any rights with respect thereto, except the right to receive shares of the applicable series of Preferred Stock as provided herein.

c. Conversion of Options to Purchase Common Units. Each option to purchase Common Units (the “**Options**”) outstanding immediately prior to the Effective Time under the LLC Equity Incentive Plan, if any, whether or not then exercisable, shall continue to be outstanding according to the terms and conditions as set forth in the LLC Equity Plan and any option agreements thereunder in effect immediately prior to the Effective Time, except that each such Option shall automatically be exercisable (or will become exercisable in accordance with its terms) for that number of shares of Common Stock equal the number of Common Units that were issuable upon exercise of such Option immediately prior to the Effective Time.

d. Conversion of Warrants to Purchase Common Units. Each warrant to purchase Common Units (the “**Warrants**”) outstanding immediately prior to the Effective Time, if any, will, whether or not then exercisable, continue to have, and be subject to, the same terms and conditions as set forth in the applicable Warrant as in effect immediately prior to the Effective Time, except that (i) each such Warrant shall automatically be exercisable (or will become exercisable in accordance with its terms) for that number of shares of Common Stock equal to the number of Common Units that were issuable upon exercise of such Warrant, and (ii) the terms of such Warrant shall be modified to the extent necessary to reflect the Conversion from a limited liability company to a corporation and that such Warrant will be exercisable for shares of Common Stock and not Common Units. Following the Effective Time, the Corporation shall deliver to each holder of Warrants such agreements, documents and other instruments as it may deem necessary or desirable to evidence the conversion of the Warrants pursuant to the Conversion and this Section 4(d).

e. Exchange of Units for Stock Certificates. Promptly following the Effective Time, subject to the Corporation’s receipt of a Stockholders’ Agreement Signature Page from each record holder of Units immediately prior to the Conversion as contemplated by Section 3(b) hereof, the Corporation, upon request, may deliver to each such record holder of Units one or more certificates representing that number of shares of Common Stock and/or Preferred Stock into which such holder’s Units were converted pursuant to the Conversion and the provisions of this Section 4 as the holder thereof may direct. Notwithstanding the foregoing, certificates for shares of Restricted Stock into which the Restricted Units were converted shall be separately certificated (in the name of the respective holder thereof) and held by the Corporation until the applicable vesting date thereof; provided, however, that (i) certificates for all shares of Common Stock or Preferred Stock issued in exchange for Units subject to the provisions of any Collateral Assignment Agreement executed by such holder related to loans shall be separately certificated (in the name of the respective holder thereof) and held either by the Corporation (in the case of collateral assignments in favor of the Corporation) or delivered by the Corporation to be the applicable third-party lender (in the case of collateral assignments in favor of third-party lenders), in each case to be held until the applicable loan repayment has occurred, and (ii) certificates subject to an escrow agreement between any holder and the Corporation with respect to Restricted Shares shall be held by the Corporation pursuant to the terms of such escrow agreement and none of any such certificates shall be delivered to the record holder thereof until such vesting date or loan repayment date; provided, further, that, with respect to any such shares held by the Corporation, the Corporation shall, upon request by the applicable holder, (x) deliver to such holder certificates representing vested shares of Common Stock to permit dispositions thereof in connection with repayment of any such loans, and (y) release its lien on such shares to the extent necessary to

permit such holder to sell such shares; provided, that the net proceeds of such sale shall be remitted to the Corporation in payment of all or a portion of such loan). Except for the Restricted Units and the Units subject to the Collateral Assignment Agreements as described in the prior sentence, a certificate representing the proper number of shares of Common Stock into which the Units were converted into pursuant to the Conversion and this Section 4 shall only be issued to the person in whose name such Units were registered immediately prior to the Conversion. Until all shares of Common Stock and Preferred Stock are delivered in accordance with this Section 4(e), each Unit shall be deemed at any time after the Effective Time to represent only the right to receive shares of Common Stock or Preferred Stock, as applicable, into which such Unit was converted pursuant to the Conversion and this Section 4.

f. No Further Ownership Rights in Units. All shares of Capital Stock issued in exchange for Units pursuant to the Conversion in accordance with the terms of this Section 4 shall be deemed to have been issued in full satisfaction of all rights pertaining to the Units under the LLC Agreement. After the Effective Time, there shall be no further registration of transfers on the transfer books of the Company of the Units that were outstanding immediately prior to the Effective Time.

5. Filings, Licenses, Permits, Titled Property, Etc. As applicable, following the Effective Time, the Corporation shall apply for qualifications to conduct business (including as a foreign corporation), licenses, permits and similar authorizations on its behalf and in its own name in connection with the Conversion and to reflect the fact that it is a corporation. As required or appropriate, following the Effective Time, all real, personal or intangible property of the Company which was titled or registered in the name of the Company (including, without limitation, FDA registrations, patents, trademarks and aircraft interests) shall be re-titled or re-registered, as applicable, in the name of the Corporation by appropriate filings and/or notices to the appropriate parties (including, without limitation, any applicable governmental agencies). In addition, following the Effective Time, the Company's customer, vendor and investor communications (e.g., business cards, letterhead, websites, etc.) shall be revised to reflect the Conversion and the Corporation's corporate status.

6. Further Assurances. If, at any time after the Effective Time, the Corporation shall determine or be advised that any deeds, bills of sale, assignments, agreements, documents or assurances or any other acts or things are necessary, desirable or proper, consistent with the terms of this Plan, (a) to vest, perfect or confirm, of record or otherwise, in the Corporation its right, title or interest in, to or under any of the rights, privileges, immunities, powers, purposes, franchises, properties or assets of the Company, or (b) to otherwise carry out the purposes of this Plan, the Corporation and its proper officers and directors (or their designees), are hereby authorized to solicit in the name of the Company any third-party consents or other documents required to be delivered by any third-party, to execute and deliver, in the name and on behalf of the Company all such deeds, bills of sale, assignments, agreements, documents and assurances and do, in the name and on behalf of the Company, all such other acts and things necessary, desirable or proper to vest, perfect or confirm its right, title or interest in, to or under any of the rights, privileges, immunities, powers, purposes, franchises, properties or assets of the Company and otherwise to carry out the purposes of this Plan.

7. Tax Matters. The Corporation shall use the federal employer identification number of the Company.

8. Implementation and Interpretation; Termination and Amendment. This Plan shall be implemented and interpreted, prior to the Effective Time, by the LLC Board and, following the Effective Time, by the Board of Directors of the Corporation (a) each of which shall have full power and authority to delegate and assign any matters covered hereunder to any other party(ies), including, without limitation, any officers of the Company or the Corporation as the case may be, and (b) the interpretations and decisions of which shall be final, binding, and conclusive on all parties. The LLC Board or the Board of Directors of the Corporation, as applicable, at any time and from time to time, may terminate, amend or modify this Plan.

9. Third Party Beneficiaries. This Plan shall not confer any rights or remedies upon any person or entity other than as expressly provided herein

10. Severability. Whenever possible, each provision of this Plan will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Plan is held to be prohibited by or invalid under applicable law, such provision will be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of this Plan.

11. Governing Law. This Plan shall be construed in accordance with and governed by the laws of the State of Delaware, without regard to the conflict of laws provisions thereof.

[Remainder of Page Intentionally Left Blank. Signature Page Follows.]

IN WITNESS WHEREOF, Heading Health LLC has caused this Plan to be executed by its duly authorized representative as of the date first stated above.

HEADING HEALTH LLC

DocuSigned by:
By: Benjamin Goldman
Name: Benjamin Goldman
Title: Manager and Chief Financial Officer

Exhibit A
Certificate of Conversion

Exhibit B
Certificate of Incorporation

**CERTIFICATE OF INCORPORATION
OF
HEADING HEALTH INC.**

The undersigned Incorporator, desiring to form a corporation under pursuant to the General Corporation Law of the State of Delaware, hereby certifies as follows:

FIRST: The name of this corporation is Heading Health Inc. (the “**Corporation**”).

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

THIRD: The purpose of the corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

FOURTH: The total number of shares of all classes of stock which the Corporation shall have authority to issue is 100,000,000, of which (a) 9,700,000 shares are to be Common Stock, \$0.001 par value per share (the “**Common Stock**”); and (b) 90,300,000 shares are to be Serial Preferred Stock, par value \$0.001 per share (the “**Serial Preferred Stock**”).

The following is a statement of the designations and the powers, privileges and rights, and the qualifications, limitations or restrictions thereof in respect of each class of capital stock of the Corporation.

A. COMMON STOCK

1. General. The voting, dividend and liquidation rights of the holders of the Common Stock are subject to and qualified by the rights, powers and preferences of the holders of the Preferred Stock set forth herein.

2. Voting. The holders of the Common Stock are entitled to one (1) vote for each share of Common Stock held at all meetings of stockholders (and written actions in lieu of meetings). The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by (in addition to any vote of the holders of one (1) or more series of Preferred Stock that may be required by the terms of the Certificate of Incorporation) the affirmative vote of the holders of shares of capital stock of the Corporation representing a majority of the votes represented by all outstanding shares of capital stock of the Corporation entitled to vote, irrespective of the provisions of Section 242(b)(2) of the General Corporation Law.

B. SERIAL PREFERRED STOCK

I. Pari-Passu Preferred Stock. Of the Serial Preferred Stock, 2,118,750 shares are to be designated as Series A (the “**Series A Preferred Stock**”), (ii) 1,595,899 shares are to be designated as Series Seed (the “**Series Seed Preferred Stock**,” together with the Series A Preferred Stock, the “**Pari-Passu Preferred Stock**”).

1. Dividends.

1.1. Dividends payable on the Pari-Passu Preferred Stock shall be payable Pro Rata with reference to the aggregate original issuance price for each class of Pari-Passu Preferred Stock, so that each such dividend represents an equivalent percentage of the aggregate original issuance price of each class of Pari-Passu Preferred Stock. Until such time (the "**Preference Termination Time**") as the aggregate amount of dividends paid on each share of Pari-Passu Preferred Stock from the date of issuance until the Preference Termination Time equals the Series A Original Issue Price (as defined below) and the Series Seed Original Issue Price (as defined below, and together with the Series A Original Issue Price, the "**Preference Amount**") the Corporation shall not declare, pay or set aside any dividends on shares of any class of Serial Preferred Stock that is designated as junior to the Pari-Passu Preferred Stock or Common Stock (other than dividends on shares of Common Stock payable in shares of Common Stock) unless (in addition to the obtaining of any consents required elsewhere in the Corporation's Certificate of Incorporation) the holders of the Pari-Passu Preferred Stock then outstanding shall first receive, or simultaneously receive, a dividend on each outstanding share of Pari-Passu Preferred Stock in an amount equal to the quotient of (1) the product of (a) the dividend payable on each share of Common Stock and (b) the number of shares of Common Stock, divided by (2) the number of outstanding shares of Pari-Passu Preferred Stock, in each case calculated on the record date for determination of holders entitled to receive such dividend. The "**Series A Original Issue Price**" shall mean \$0.40 per share, subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Pari-Passu Preferred Stock. The "**Series Seed Original Issue Price**" shall mean \$0.87 per share, subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series Seed Preferred Stock. Following the Preference Termination Time and prior to the Mandatory Conversion of the Pari-Passu Preferred Stock, the holders of the Pari-Passu Preferred Stock shall be entitled to receive, simultaneously with the holders of Common Stock, a dividend on each outstanding share of Pari-Passu Preferred Stock, per share equal to the dividend payable on each share of Common Stock. For avoidance of doubt, the immediately preceding sentence shall apply in the event that one distribution exceeds the amount that would cause the Preference Termination Time, such that the amount in excess of the remaining Preference Amount would be distributed in accordance with the immediately preceding sentence.

2. Liquidation, Dissolution or Winding Up; Certain Mergers, Consolidations and Asset Sales.

2.1. Preferential Payments to Holders of Pari-Passu Preferred Stock. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the holders of shares of Pari-Passu Preferred Stock then outstanding shall be entitled to be paid on the basis set forth in Section 1.1 out of the assets of the Corporation available for distribution to its stockholders or, in the case of a Deemed Liquidation Event (as defined below), out of the consideration payable to stockholders in such Deemed Liquidation Event or the Available Proceeds (as defined below), until such time as the holders of the Pari-Passu Preferred Stock have

received the Preference Amount (whether by payment of dividends or by virtue of a distribution pursuant to this Section 2.1, or both), an amount per share equal to the original issue price

2.2. Distribution of Remaining Assets. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, after the holders of the Pari-Passu Preferred Stock have received payment in full of the Preference Amount (including by virtue of all prior dividends), the remaining assets of the Corporation available for distribution to its stockholders or, in the case of a Deemed Liquidation Event, the consideration not payable to the holders of shares of Pari-Passu Preferred Stock pursuant to Section 2.1 or the remaining Available Proceeds, as the case may be, shall be distributed among the holders of the shares of Pari-Passu Preferred Stock and Common Stock, pro rata based on the number of shares held by each such holder, treating for this purpose all such securities as if they had been converted to Common Stock pursuant to the terms of this Certificate of Incorporation immediately prior to such liquidation, dissolution or winding up of the Corporation. The aggregate amount which a holder of a share of Pari-Passu Preferred Stock is entitled to receive under Subsections 2.1 and 2.2 is hereinafter referred to as the "Series A Liquidation Amount."

2.3. Deemed Liquidation Events.

2.3.1. Definition. Each of the following events shall be considered a "Deemed Liquidation Event":

- a. a merger, acquisition, share exchange or consolidation in which:
 - i. the Corporation is a constituent party or
 - ii. a subsidiary of the Corporation is a constituent party and the Corporation issues shares of its capital stock pursuant to such merger or consolidation,

except any such merger or consolidation involving the Corporation or a subsidiary in which the shares of capital stock of the Corporation outstanding immediately prior to such merger or consolidation continue to represent, or are converted into or exchanged for shares of capital stock that represent, immediately following such merger or consolidation, at least a majority, by voting power, of the capital stock of (1) the surviving or resulting corporation; or (2) if the surviving or resulting corporation is a wholly owned subsidiary of another corporation immediately following such merger or consolidation, the parent corporation of such surviving or resulting corporation; or

b. (1) the sale, lease, transfer, exclusive license or other disposition, in a single transaction or series of related transactions, by the Corporation of all or substantially all the assets of the Corporation and its subsidiaries taken as a whole or (2) the sale or disposition (whether by merger, consolidation or otherwise, and whether in a single transaction or a series of related transactions) 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.

2.3.2. Effecting a Deemed Liquidation Event.

a. The Corporation shall not have the power to effect a Deemed Liquidation Event referred to in Subsection 2.3.1(a)(i) unless the agreement or plan of merger or consolidation for such transaction (the “**Merger Agreement**”) provides that the consideration payable to the stockholders of the Corporation in such Deemed Liquidation Event shall be paid to the holders of capital stock of the Corporation in accordance with Subsections 2.1 and 2.2.

b. In the event of a Deemed Liquidation Event referred to in Subsection 2.3.1(b), if the Corporation does not effect a dissolution of the Corporation under the Act within ninety (90) days after such Deemed Liquidation Event, then (i) the Corporation shall send a written notice to each holder of Pari-Passu Preferred Stock no later than the ninetieth (90th) day after the Deemed Liquidation Event advising such holders of their right (and the requirements to be met to secure such right) pursuant to the terms of the following clause to require the redemption of such shares of Pari-Passu Preferred Stock, and (ii) if the holders of at least a majority of the then outstanding shares of Pari-Passu Preferred Stock so request in a written instrument delivered to the Corporation not later than one hundred twenty (120) days after such Deemed Liquidation Event, the Corporation shall use the consideration received by the Corporation for such Deemed Liquidation Event (net of any retained liabilities associated with the assets sold or technology licensed, as determined in good faith by the Board), together with any other assets of the Corporation available for distribution to its stockholders, all to the extent permitted by Massachusetts law governing distributions to stockholders (the “**Available Proceeds**”), on the one hundred fiftieth (150th) day after such Deemed Liquidation Event, to redeem all outstanding shares of Pari-Passu Preferred Stock at a price per share equal to the Series A Liquidation Amount. Notwithstanding the foregoing, in the event of a redemption pursuant to the preceding sentence, if the Available Proceeds are not sufficient to redeem all outstanding shares of Pari-Passu Preferred Stock, the Corporation shall redeem a pro rata portion of each holder’s shares of Pari-Passu Preferred Stock to the fullest extent of such Available Proceeds, based on the respective amounts which would otherwise be payable in respect of the shares to be redeemed if the Available Proceeds were sufficient to redeem all such shares, and shall redeem the remaining shares as soon as it may lawfully do so under Massachusetts law governing distributions to stockholders. Prior to the distribution or redemption provided for in this Subsection 2.3.2(b), the Corporation shall not expend or dissipate the consideration received for such Deemed Liquidation Event, except to discharge expenses incurred in connection with such Deemed Liquidation Event.

c. On or before any redemption date pursuant to this Section 2.3.2, each holder of shares of Pari-Passu Preferred Stock shall surrender the certificate or certificates (if any) representing such shares (or, if such registered holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate) to the Corporation, in the manner and at the place designated in by the Corporation, and thereupon the Available Proceeds (or such other redemption price) for such shares shall be payable to the order of the person whose name appears on such certificate or certificates as the owner thereof. In the event less than all of the shares of Pari-Passu Preferred Stock represented by a certificate are redeemed, a new certificate, instrument, or book entry representing the unredeemed shares of Pari-

Passu Preferred Stock shall promptly be issued to such holder. If any shares of Pari-Passu Preferred Stock are not redeemed for any reason on any redemption date, all such unredeemed shares shall remain outstanding and entitled to all the rights and preferences provided herein, and the Corporation shall pay interest on the redemption price applicable to such unredeemed shares at an aggregate per annum rate equal to six percent (6%) until the redemption price, and any interest thereon, is paid in full, with such interest to accrue daily in arrears and be compounded annually; provided, however, that in no event shall such interest exceed the maximum permitted rate of interest under applicable law.

2.3.3. Amount Deemed Paid or Distributed. The amount deemed paid or distributed to the holders of capital stock of the Corporation upon any such merger, consolidation, sale, transfer, exclusive license, other disposition or redemption shall be the cash or the value of the property, rights or securities to be paid or distributed to such holders pursuant to such Deemed Liquidation Event. The value of such property, rights or securities shall be determined in good faith by the Board.

2.3.4. Allocation of Escrow and Contingent Consideration. In the event of a Deemed Liquidation Event pursuant to Subsection 2.3.1(a)(i), if any portion of the consideration payable to the stockholders of the Corporation is payable only upon satisfaction of contingencies (the “**Additional Consideration**”), the Merger Agreement shall provide that (a) the portion of such consideration that is not Additional Consideration (such portion, the “**Initial Consideration**”) shall be allocated among the holders of capital stock of the Corporation in accordance with Subsections 2.1 and 2.2 as if the Initial Consideration were the only consideration payable in connection with such Deemed Liquidation Event; and (b) any Additional Consideration which becomes payable to the stockholders of the Corporation upon satisfaction of such contingencies shall be allocated among the holders of capital stock of the Corporation in accordance with Subsections 2.1 and 2.2 after taking into account the previous payment of the Initial Consideration as part of the same transaction. For the purposes of this Subsection 2.3.4, 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 deemed to be Additional Consideration.

3. Voting.

3.1. General. On any matter presented to the stockholders of the Corporation for their action or consideration at any meeting of stockholders of the Corporation (or by written consent of stockholders in lieu of meeting), each holder of outstanding shares of Pari-Passu Preferred Stock shall be entitled to cast the number of votes equal to the number of whole shares of Common Stock into which the shares of Pari-Passu Preferred Stock held by such holder are convertible as of the record date for determining stockholders entitled to vote on such matter. Except as provided by law or by the other provisions of this Certificate of Incorporation, holders of Pari-Passu Preferred Stock shall vote together with the holders of Common Stock as a single class and on an as-converted to Common Stock basis.

3.2. Protective Provisions. For so long as any shares of Preferred Stock remain outstanding, the Corporation shall not, either directly or indirectly by amendment, merger,

consolidation or otherwise, do any of the following without (in addition to any other vote required by law or this Certificate of Incorporation) the written consent or affirmative vote of the stockholders holding a majority in interest of the outstanding shares of Common Stock and Serial Preferred Stock, with the Serial Preferred Stock voting together with the Common as a single class on an as-converted to Common Stock basis (the “**Requisite Investors**”), and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force and effect:

a. Amend, alter, waive or repeal any provision of this Certificate of Incorporation or the Bylaws of the Corporation (except for an amendment, alteration, waiver or repeal of a provision that is proposed to cure any ambiguity or to correct or supplement any provision contained herein which maybe defective or inconsistent with any other provisions contained herein). Any such written amendment or modification will be binding upon the Corporation and each stockholder; *provided*, that (i) an amendment or modification adversely impacting the rights or obligations of any stockholder, class or series of stock, shall be effective only with that stockholders consent or the consent of the stockholders holding a majority in interest of the stock in that class or series, as applicable and (ii) any amendment or modification of this Section 3.2 shall require the approval of all stockholders.

b. Establish a future reserve of shares for issuance under any equity incentive plan or amend any equity incentive plan of the Corporation to increase the aggregate number of shares issuable thereunder to a number of shares that would exceed ten percent (10%) of the fully diluted equity capitalization of the Company.

4. Mandatory Conversion.

4.1. Trigger Events. Upon either: (a) the Preference Termination Time, (b) the closing of the sale of shares of Common Stock to the public, in a firm-commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, resulting in at least \$50,000,000 of proceeds, net of the underwriting discount and commissions, to the Corporation and in connection with such offering the Common Stock is listed for trading on the Nasdaq Global Market, the New York Stock Exchange or another exchange or marketplace approved the Board of Directors (“**TPO**”), or (c) the date and time, or the occurrence of an event, specified by vote or written consent of the stockholders owning at least a majority of the outstanding shares of the Pari-Passu Preferred Stock (the time of such closing or the date and time specified or the time of the event specified in such vote or written consent is referred to herein as the “**Mandatory Conversion Time**”), then (i) all outstanding shares of Pari-Passu Preferred Stock shall automatically be converted into shares of Common Stock, at the conversion ratio set forth pursuant to Subsection 4.1.1, and (ii) such shares may not be reissued by the Corporation.

4.1.1. Conversion. Each share of Pari-Passu Preferred Stock shall be convertible, at the option of the holder thereof, at any time and from time to time, prior to the events described in Section 4.1(a)-(c), and without the payment of additional consideration by the holder thereof, into one share of fully paid and non-assessable Common Stock.

4.2. Fractional Shares. No fractional shares of Common Stock shall be issued upon conversion of the Pari-Passu Preferred Stock. In lieu of any fractional shares to which the holder would otherwise be entitled, the Corporation shall pay cash equal to such fraction multiplied by the fair market value of a share of Common Stock as determined in good faith by the Board. Whether or not fractional shares would be issuable upon such conversion shall be determined on the basis of the total number of shares of Pari-Passu Preferred Stock the holder is at the time converting into Common Stock and the aggregate number of shares of Common Stock issuable upon such conversion.

4.3. Procedural Requirements. All holders of record of shares of Pari-Passu Preferred Stock shall be sent written notice of the Mandatory Conversion Time and the place designated for mandatory conversion of all such shares of Pari-Passu Preferred Stock pursuant to this Section 4. Such notice need not be sent in advance of the occurrence of the Mandatory Conversion Time. Upon receipt of such notice, each holder of shares of Pari-Passu Preferred Stock in certificated form 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, any 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. All rights with respect to the Pari-Passu Preferred Stock converted pursuant to Subsection 4.1, including the rights, if any, to receive notices and vote (other than as a holder of Common Stock), will terminate at the Mandatory Conversion Time (notwithstanding the failure of the holder or holders thereof to surrender any certificates at or prior to such time), except only the rights of the holders thereof, upon surrender of any certificate or certificates of such holders (or lost certificate affidavit and agreement) therefor, to receive the items provided for in the next sentence of this Subsection 4.3. As soon as practicable after the Mandatory Conversion Time and, if applicable, the surrender of any certificate or certificates (or lost certificate affidavit and agreement) for Pari-Passu Preferred Stock, the Corporation shall (a) issue and deliver to such holder, or to his, her or its nominees, a notice of issuance of uncertificated shares and may, upon written request, issue and deliver a certificate for the number of full shares of Common Stock issuable upon such conversion in accordance with the provisions hereof and (b) pay cash as provided in Subsection 4.2 in lieu of any fraction of a share of Common Stock otherwise issuable upon such conversion and the payment of any declared but unpaid dividends on the shares of Pari-Passu Preferred Stock converted. Such converted Pari-Passu 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 Pari-Passu Preferred Stock accordingly.

4.4. Reservation of Shares. The Corporation shall at all times when the Pari-Passu Preferred Stock shall be outstanding, reserve and keep available out of its authorized but unissued capital stock, for the purpose of effecting the conversion of the Pari-Passu Preferred Stock, such number of its duly authorized shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding Pari-Passu Preferred Stock; and if at any time

the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Pari-Passu Preferred Stock, the Corporation shall take such corporate action as may be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes, including, without limitation, engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to this Certificate of Incorporation. Before taking any action which would cause an adjustment reducing the Series A Original Issue Price below the then par value of the shares of Common Stock issuable upon conversion of the Pari-Passu Preferred Stock, the Corporation will take any corporate action which may, in the opinion of its counsel, be necessary in order that the Corporation may validly and legally issue fully paid and non-assessable shares of Common Stock at such adjusted Series A Original Issue Price.

4.4.1. Effect of Conversion. All shares of Pari-Passu Preferred Stock which shall have been surrendered for conversion as herein provided shall no longer be deemed to be outstanding and all rights with respect to such shares shall immediately cease and terminate at the Conversion Time, except only the right of the holders thereof to receive shares of Common Stock in exchange therefor, to receive payment in lieu of any fraction of a share otherwise issuable upon such conversion as provided in Subsection 4.2 and to receive payment of any dividends declared but unpaid thereon. Any shares of Pari-Passu Preferred Stock so converted 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 Pari-Passu Preferred Stock accordingly.

4.4.2. No Further Adjustment. Upon any such conversion, no adjustment to the conversion rate of the Pari-Passu Preferred Stock shall be made for any declared but unpaid dividends on the Pari-Passu Preferred Stock surrendered for conversion or on the Common Stock delivered upon conversion.

4.4.3. Taxes. The Corporation shall pay any and all issue and other similar taxes that may be payable in respect of any issuance or delivery of shares of Common Stock upon conversion of shares of Pari-Passu Preferred Stock pursuant to this Section 4. The Corporation shall not, however, be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of shares of Common Stock in a name other than that in which the shares of Pari-Passu Preferred Stock so converted were registered, and no such issuance or delivery shall be made unless and until the person or entity requesting such issuance has paid to the Corporation the amount of any such tax or has established, to the satisfaction of the Corporation, that such tax has been paid.

4.5. Notice of Record Date. In the event:

(a) the Corporation shall take a record of the holders of its Common Stock (or other capital stock or securities at the time issuable upon conversion of the Pari-Passu Preferred Stock) for the purpose of entitling or enabling them to receive any dividend or other distribution, or to receive any right to subscribe for or purchase any shares of capital stock of any class or any other securities, or to receive any other security; or

(b) of any capital reorganization of the Corporation, any reclassification of the Common Stock of the Corporation, or any Deemed Liquidation Event; or

(c) of the voluntary or involuntary dissolution, liquidation or winding-up of the Corporation, then, and in each such case, the Corporation will send or cause to be sent to the holders of the Pari-Passu Preferred Stock a notice specifying, as the case may be, (i) the record date for such dividend, distribution or right, and the amount and character of such dividend, distribution or right, or (ii) the effective date on which such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation or winding-up is proposed to take place, and the time, if any is to be fixed, as of which the holders of record of Common Stock (or such other capital stock or securities at the time issuable upon the conversion of the Pari-Passu Preferred Stock) shall be entitled to exchange their shares of Common Stock (or such other capital stock or securities) for securities or other property deliverable upon such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation or winding-up, and the amount per share and character of such exchange applicable to the Pari-Passu Preferred Stock and the Common Stock. Such notice shall be sent at least ten (10) days prior to the record date or effective date for the event specified in such notice.

5. Redeemed or Otherwise Acquired Shares. Any shares of Pari-Passu Preferred Stock that are redeemed or otherwise acquired by the Corporation or any of its subsidiaries shall be automatically and immediately cancelled and retired and shall not be reissued, sold or transferred. Neither the Corporation nor any of its subsidiaries may exercise any voting or other rights granted to the holders of Pari-Passu Preferred Stock following redemption.

6. Waiver. Any of the rights, powers, preferences and other terms of the Pari-Passu Preferred Stock set forth herein may be waived on behalf of all holders of Pari-Passu Preferred Stock by the affirmative written consent or vote of the holders of at least a majority of the shares of Pari-Passu Preferred Stock then outstanding.

7. Notices. Any notice required or permitted by the provisions of this Article to be given to a holder of shares of Pari-Passu Preferred Stock shall be mailed, postage prepaid, to the post office address last shown on the records of the Corporation, or given by electronic communication in compliance with the provisions of the Act, and shall be deemed sent upon such mailing or electronic transmission.

II. Undesignated Preferred Stock. Of the Serial Preferred Stock, 90,300,000 shares are to be undesignated (the “**Undesignated Preferred Stock**”).

1. Of the Undesignated Preferred Stock, Serial Preferred Stock may be issued from time to time by the Board of Directors, as shares of one or more series of Serial Preferred Stock, and, subject to this Article Fourth, the Board of Directors is expressly authorized, prior to issuance, in the resolution or resolutions providing for the issue of shares of each particular series, to fix the relative rights, preferences or limitations of the shares of each particular series, including but not limited to the following:

1.1 The distinctive serial designation of such series which shall distinguish it from other series;

1.2 The number of shares included in such series, which number may be increased or decreased from time to time unless otherwise provided in the resolutions creating the series;

1.3 The dividend rate or rates (or method of determining such rate or rates) for shares of such series and the date or dates (or the method of determining such date or dates) upon which such dividends shall be payable;

1.4 Whether dividends on the shares of such series shall be cumulative, and, in the case of shares of any series having cumulative dividend rights, the date or dates or method of determining the date or dates from which dividends on the shares of such series shall be cumulative;

1.5 The amount or amounts which shall be paid out of the assets of the Corporation to the holders of the shares of such series upon voluntary or involuntary liquidation, dissolution or winding up of the Corporation;

1.6 The price or prices at which, the period or periods within which and the terms and conditions upon which the shares of such series may be redeemed or exchanged, in whole or in part;

1.7 The obligation, if any, of the Corporation to purchase or redeem shares of such series pursuant to any requirement for the periodic retirement of shares or otherwise, and the price or prices at which, the period or periods within which and the terms and conditions upon which the shares of such series shall be redeemed, in whole or in part, pursuant to such obligation;

1.8 The period or periods within which and the terms and conditions, if any, including the price or prices or the rate or rates of conversion and the terms and conditions of any adjustments thereof, upon which the shares of such series shall be convertible at the option of the holder into shares of any other class of stock or into shares of any other series of the Serial Preferred Stock, except into shares of a class having rights or preferences as to dividends or distribution of assets upon liquidation which are prior or superior in rank to those of the shares being converted;

1.9 The voting rights, if any, of the shares of such series in addition to those required by law, including the number of votes per share and any requirement for the approval by the holders of more than a majority of all the Serial Preferred Stock, or of the shares of one or more series, or of both, as a condition to specified corporate action or amendments to the Certificate of Incorporation;

1.10 The relative preference or priority as to the right to receive dividends and the right to receive payments out of the assets of the Corporation upon voluntary or involuntary liquidation, dissolution or winding up of the Corporation;

1.11 Whether the shares of such series shall entitle the holder to subscribe for or purchase, or have any preemptive right with respect to, any part of any new or additional issue of stock of any class whatsoever (or of securities convertible into any stock of any class whatsoever), whether now or hereafter authorized, issued for cash or other consideration; and

1.12 Any other relative rights, preferences or limitations of the shares of the series not inconsistent herewith or with applicable law.

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

SIXTH: Subject to any additional vote required by this Certificate of Incorporation, the number of directors of the Corporation shall be determined in the manner set forth in the Bylaws of the Corporation. Each director shall be entitled to one vote on each matter presented to the Board of Directors.

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

EIGHTH: Meetings of stockholders may be held within or without the State of Delaware, as the Bylaws of the Corporation may provide. The books of the Corporation may be kept outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the Bylaws of the Corporation.

NINTH: To the fullest extent permitted by law, 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 or any other law of the State of Delaware is amended after approval by the stockholders of this Article Ninth 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.

Any repeal or modification of the foregoing provisions of this Article Ninth by the stockholders of the Corporation shall not adversely affect any right or protection of a director 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 of such director occurring prior to, such repeal or modification.

TENTH: The following indemnification provisions shall apply to the persons enumerated below.

1. Right to Indemnification of Directors and Officers. The Corporation shall indemnify and hold harmless, to the fullest extent permitted by applicable law as it presently exists or may hereafter be amended, any person (an “**Indemnified Person**”) who was or is made or is threatened to be made a party or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (a “**Proceeding**”), by reason of the fact that such

person, or a person for whom such person is the legal representative, is or was a director or officer of the Corporation or, while a director or officer of the Corporation, 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, limited liability company, trust, enterprise or nonprofit entity, including service with respect to employee benefit plans, against all liability and loss suffered and expenses (including attorneys' fees) reasonably incurred by such Indemnified Person in such Proceeding. Notwithstanding the preceding sentence, except as otherwise provided in Section 3 of this Article Tenth the Corporation shall be required to indemnify an Indemnified Person in connection with a Proceeding (or part thereof) commenced by such Indemnified Person only if the commencement of such Proceeding (or part thereof) by the Indemnified Person was authorized in advance by the Board of Directors.

2. Prepayment of Expenses of Directors and Officers. The Corporation shall pay the expenses (including attorneys' fees) incurred by an Indemnified Person in defending any Proceeding in advance of its final disposition, provided, however, that, to the extent required by law, such payment of expenses in advance of the final disposition of the Proceeding shall be made only upon receipt of an undertaking by the Indemnified Person to repay all amounts advanced if it should be ultimately determined that the Indemnified Person is not entitled to be indemnified under this Article Tenth or otherwise.

3. Claims by Directors and Officers. If a claim for indemnification or advancement of expenses under this Article Tenth is not paid in full within thirty (30) days after a written claim therefor by the Indemnified Person has been received by the Corporation, the Indemnified Person may file suit to recover the unpaid amount of such claim and, if successful in whole or in part, shall be entitled to be paid the expense of prosecuting such claim and such Indemnified Person's costs and expenses incurred in connection with successfully establishing his right to indemnification, in whole or in part, in any such action shall also be indemnified by the Corporation. In any such action the Corporation shall have the burden of proving that the Indemnified Person is not entitled to the requested indemnification or advancement of expenses under applicable law. 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, has been tendered to the corporation) that the claimant has not met the standards of conduct which make it permissible under the General Corporation Law for the Corporation to indemnify the claimant for the amount claimed. Neither the failure of the Corporation (including the Board, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such action that indemnification of the Indemnified Person is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the General Corporation Law, nor an actual determination by the Corporation (including its Board, independent legal counsel, or its stockholders) that the Indemnified Person 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.

4. Indemnification of Employees and Agents. The Corporation may indemnify and advance expenses to any person who was or is made or is threatened to be made or is otherwise involved in any Proceeding by reason of the fact that such person, or a person for whom such person is the legal representative, is or was an employee or agent of the Corporation or, while an employee or agent of the Corporation, 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, limited liability company, trust, enterprise or nonprofit entity, including service with respect to employee benefit plans, against all liability and loss suffered and expenses (including attorneys' fees) reasonably incurred by such person in connection with such Proceeding. The ultimate determination of entitlement to indemnification of persons who are non-director or officer employees or agents shall be made in such manner as is determined by the Board of Directors in its sole discretion. Notwithstanding the foregoing sentence, the Corporation shall not be required to indemnify a person in connection with a Proceeding initiated by such person if the Proceeding was not authorized in advance by the Board of Directors.

5. Advancement of Expenses of Employees and Agents. The Corporation may pay the expenses (including attorneys' fees) incurred by an employee or agent in defending any Proceeding in advance of its final disposition on such terms and conditions as may be determined by the Board of Directors.

6. Non-Exclusivity of Rights. The rights conferred on any person by this Article Tenth shall not be exclusive of any other rights which such person may have or hereafter acquire under any statute, provision of this Certificate of Incorporation, the Bylaws of the Corporation, or any agreement, or pursuant to any vote of stockholders or disinterested directors or otherwise.

7. Other Indemnification. The Corporation hereby acknowledges that an Indemnified Person may have certain rights to indemnification, advancement of expenses and/or insurance provided by other corporations, partnerships, limited liability companies, joint ventures, trusts, organizations or other enterprises at whose request such Indemnified Person was serving as a director, officer, employee or agent. The Corporation hereby agrees that, vis-à-vis such entities (i) it is the indemnitor of first resort (i.e., its obligations to such Indemnified Person are primary and any obligation of such other entities to advance expenses or to provide indemnification for the same expenses or liabilities incurred by such Indemnified Person are secondary), (ii) it shall be required to advance the full amount of expenses incurred by such Indemnified Person and shall be liable for the full amount of all expenses, judgments, penalties, fines and amounts paid in settlement to the extent legally permitted and as required by the terms hereof, without regard to any rights such Indemnified Person may have against such other entities, and, (iii) it irrevocably waives, relinquishes and releases such other entities from any and all claims against such companies for contribution, subrogation or any other recovery of any kind in respect thereof. The Corporation further agrees that no advancement or payment by any such other entity on behalf of such Indemnified Person with respect to any claim for which such Indemnified Person has sought indemnification from the Corporation shall affect the foregoing.

8. Insurance. The Board of Directors may, to the full extent permitted by applicable law as it presently exists, or may hereafter be amended from time to time, authorize an appropriate officer or officers to purchase and maintain at the Corporation's expense insurance: (a) to indemnify the Corporation for any obligation which it incurs as a result of the indemnification of directors, officers and employees under the provisions of this Article Tenth; and (b) to indemnify or insure directors, officers and employees against liability in instances in which they may not otherwise be indemnified by the Corporation under the provisions of this Article Tenth.

9. Merger or Consolidation. For purposes of this Article Tenth, references to “the Corporation” shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, and employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under this Article Tenth with respect to the resulting or surviving corporation as he or she would have with respect to such constituent corporation if its separate existence had continued.

10. Amendment or Repeal. Any repeal or modification of the foregoing provisions of this Article Tenth shall not adversely affect any right or protection hereunder of any person in respect of any act or omission occurring prior to the time of such repeal or modification. The rights provided hereunder shall inure to the benefit of any Indemnified Person and such person’s heirs, executors and administrators.

ELEVENTH: The Corporation renounces, to the fullest extent permitted by law, any interest or expectancy 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 director of the Corporation who is not an employee of the Corporation or any of its subsidiaries (such persons to be collectively referred to herein as “**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 while such Covered Person is performing services in such capacity. Any repeal or modification of this Article Eleventh will only be prospective and will not affect the rights under this Article Eleventh in effect at the time of the occurrence of any actions or omissions to act giving rise to liability.

TWELFTH: Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery in the State of Delaware shall be the sole and exclusive forum for any stockholder (including a beneficial owner) to bring (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action asserting a claim of breach of fiduciary duty owed by any director, officer or other employee of the Corporation to the Corporation or the Corporation’s stockholders, (iii) any action asserting a claim against the Corporation, its directors, officers or employees arising pursuant to any provision of the Delaware General Corporation Law or this Certificate of Incorporation or the Bylaws of the Corporation or (iv) any action asserting a claim against the Corporation, its directors, officers or employees governed by the internal affairs doctrine, except for, as to each of (i) through (iv) above, any claim as to which the Court of Chancery determines that there is an indispensable party not subject to the jurisdiction of the Court of Chancery (and the indispensable party does not consent to the personal jurisdiction of the Court of Chancery within ten days following such determination), which is vested in the exclusive jurisdiction of a court or forum other than the Court of Chancery, or for which the Court of Chancery does not have subject matter jurisdiction. If any provision or provisions of this Article Twelfth shall be held to be invalid, illegal or unenforceable as applied to any person or entity or circumstance for any reason whatsoever, then, to the fullest extent permitted by law, the validity,

legality and enforceability of such provisions in any other circumstance and of the remaining provisions of this Article Twelfth (including, without limitation, each portion of any sentence of this Article Twelfth containing any such provision held to be invalid, illegal or unenforceable that is not itself held to be invalid, illegal or unenforceable) and the application of such provision to other persons or entities and circumstances shall not in any way be affected or impaired thereby.

IN WITNESS WHEREOF, this Certificate of Incorporation has been executed by a duly authorized representative of this corporation on this 22nd day of November, 2021.

By: DocuSigned by:
Benjamin Goldman
C07129C239481F4C0
Benjamin Goldman, Incorporator

Exhibit C
Bylaws

Exhibit D
Stockholders Agreement

Exhibit E
Directors and Officers

Directors:

1. Simon Tankel
2. Benjamin Goldman
3. Dr. Steven Levine

Officers:

Simon Tankel - Chief Executive Officer and President

Benjamin Goldman - Chief Financial Officer and Treasurer

Ali Mahomed - Secretary