

**ELEVENTH AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION OF
ALIEN TECHNOLOGY CORPORATION**

Alien Technology Corporation, a corporation organized and existing under the laws of the State of Delaware (the “**Company**”), certifies that:

A. The name of the Company is Alien Technology Corporation. The Company’s original Certificate of Incorporation was filed with the Secretary of State of the State of Delaware on September 1, 2004.

B. This Eleventh Amended and Restated Certificate of Incorporation, which restates and integrates and further amends the Tenth Amended and Restated Certificate of Incorporation, was duly adopted in accordance with Sections 242 and 245 of the General Corporation Law of the State of Delaware, and has been duly approved by the written consent of the stockholders of the Company in accordance with Section 228 of the General Corporation Law of the State of Delaware.

C. The text of the Tenth Amended and Restated Certificate of Incorporation is amended and restated to read as set forth in **Exhibit A** attached hereto.

IN WITNESS WHEREOF, Alien Technology Corporation has caused this Eleventh Amended and Restated Certificate of Incorporation to be signed by Peter Green, a duly authorized officer of the Company, on February 2, 2011.

/s/ Peter Green
Peter Green
Chief Executive Officer

EXHIBIT A

ARTICLE I

The name of this corporation is Alien Technology Corporation (the “**Company**”).

ARTICLE II

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

ARTICLE III

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

ARTICLE IV

1. **Authorized Stock.** The Company is authorized to issue two classes of stock, designated “Common Stock” and “Preferred Stock,” respectively. The total number of shares which the Company is authorized to issue is 45,430,885 shares, par value \$0.001 per share. The number of shares of Common Stock which the Company is authorized to issue is 25,754,069 shares, 23,239,877 of which shall be designated “Voting Common Stock” (hereafter, the “**Voting Common**”) and 2,514,192 of which shall be designated “Non-Voting Common Stock” (hereafter, the “**Non-Voting Common**” and together with the Voting Common, the “Common Stock”). The number of shares of Preferred Stock which the Company is authorized to issue is 19,676,816 shares, 14,602,238 of which shall be designated “Series A’ Preferred Stock” (hereafter, the “**Series A’ Preferred**”), [98,734] of which shall be designated “Series A” Preferred Stock” (hereafter, the “**Series A” Preferred**”), 2,560,386 of which shall be designated “Series B’ Preferred Stock” (hereafter, the “Series B’ Preferred”), and 2,415,458 of which shall be designated “Series B” Preferred Stock” (hereafter, the “**Series B” Preferred**” and together with the Series A’ Preferred, the Series A” Preferred and the Series B’ Preferred, the “**Preferred Stock**”). For the avoidance of doubt, the Series A’ Preferred and Series B’ Preferred shall collectively be referred to as the “**Voting Preferred**” and the Series A” Preferred and Series B” Preferred shall collectively be referred to as the “**Non-Voting Preferred.**”

ARTICLE V

The respective classes of shares and the holders thereof shall have the rights, powers, preferences, privileges, qualifications, limitations and restrictions set forth below.

1. **Dividends.**

(a) **Preferred Stock.** The holders of the Preferred Stock shall be entitled to receive, when and as declared by the Board of Directors, dividends out of funds legally available therefor, prior and in preference to any declaration or payment of any dividend (payable other than in

Common Stock or other securities and rights convertible into or entitling the holder thereof to receive, directly or indirectly, additional shares of Common Stock of the Company) on the Common Stock of the Company, at the rate of 8% of the respective Purchase Price (as defined below) per share of Preferred Stock per annum. Such dividends shall not be cumulative, and no right to such dividends shall accrue to holders of the Preferred Stock unless declared by the Board of Directors. Payment of any dividends to the holders of the Preferred Stock shall be on a pro rata, pari passu basis in proportion to the dividend amount for each series of Preferred Stock. No dividends or other distributions shall be made with respect to the Common Stock, other than dividends payable solely in Common Stock, unless the holders of the Preferred Stock shall first receive, or simultaneously receive, their full preference as provided for in the first sentence of this Section 1(a).

(b) Additional Dividends. After the payment or setting aside for payment of the dividends described in Section 1(a), any additional dividends (other than dividends on Common Stock payable solely in Common Stock) set aside or paid in any fiscal year shall be set aside or paid among the holders of the Preferred Stock and Common Stock then outstanding in proportion to the greatest whole number of shares of Common Stock which would be held by each such holder if all shares of Preferred Stock were converted at the then-effective Conversion Rate (as defined in Section 4).

2. Liquidation Preference.

(a) Preferences. In the event of any liquidation, dissolution or winding up of the Company (“**Liquidation**”), either voluntary or involuntary, distributions to the stockholders of the Company shall be made in the following manner:

(i) First, the holders of the Series B’ Preferred and Series B” Preferred shall be entitled to receive, prior and in preference to any distribution of any of the assets or surplus funds of the Company to the holders of other classes of Preferred Stock or Common Stock by reason of their ownership of such stock, a dollar amount equal to the greater of (i) the Series B’ Purchase Price or Series B” Purchase Price, as the case may be, for each share of Series B’ Preferred or Series B” Preferred then held by them, plus an amount equal to all declared but unpaid dividends on such share of Series B’ Preferred or Series B” Preferred or (ii) the amount that would have been payable for such shares of Series B’ Preferred and Series B” Preferred if such Series B’ Preferred and Series B” Preferred had been converted to shares of Common Stock immediately prior to such event. If the assets and funds thus distributable among the holders of the Series B’ Preferred and Series B” Preferred shall be insufficient to permit the payment to such holders of the full aforesaid preferential amount, then the entire remaining assets and funds of the Company legally available for distribution shall be distributed among the holders of the Series B’ Preferred and Series B” Preferred in proportion to the full preferential amount each such holder is otherwise entitled to receive pursuant to this Section 2(a)(i).

(ii) Second, the holders of the Series A’ Preferred and Series A” Preferred shall be entitled to receive, prior and in preference to any distribution of any of the assets or surplus funds of the Company to the holders of Common Stock by reason of their ownership of such stock, a dollar amount equal to the greater of (i) the product of the Series A’ Purchase Price or Series A” Purchase Price, as the case may be, multiplied by 1.5 for each share of Series A’ Preferred or Series

A" Preferred then held by them, plus an amount equal to all declared but unpaid dividends on such share of Series A' Preferred or Series A" Preferred or (ii) the amount that would have been payable for such shares of Series A' Preferred and Series A" Preferred if such Series A' Preferred and Series A" Preferred had been converted to shares of Common Stock immediately prior to such event. If the assets and funds thus distributable among the holders of the Series A' Preferred and Series A" Preferred shall be insufficient to permit the payment to such holders of the full aforesaid preferential amount, then the entire remaining assets and funds of the Company legally available for distribution shall be distributed among the holders of the Series A' Preferred and Series A" Preferred in proportion to the full preferential amount each such holder is otherwise entitled to receive pursuant to this Section 2(a)(ii).

(iii) Thereafter, any remaining assets and funds legally available for distribution hereunder shall be distributed among the holders of Common Stock, Series A' Preferred and Series A" Preferred based upon the number of shares of Common Stock held or issuable upon conversion of shares of Series A' Preferred and Series A" Preferred held by each such holder.

(b) Mergers, Consolidations, Sales, etc. For purposes of this Section 2, a merger or consolidation of the Company with or into any other corporation or corporations (but excluding any merger effected solely for the purpose of reincorporating in another state), or the merger of any other corporation or corporations into the Company, in which consolidation or merger the stockholders of the Company receive distributions in cash or securities of another corporation or corporations as a result of such consolidation or merger and in which the stockholders of the Company, immediately prior to such merger or consolidation, hold, immediately after such merger or consolidation, less than a majority of the outstanding voting securities of the surviving or successor entity or its parent, or a sale of all or substantially all of the assets of the Company (each, a "Corporate Sale"), shall be treated as a Liquidation unless otherwise agreed in writing by the holders of at least a majority of the collective voting power of all of the then-outstanding shares of Preferred Stock. In furtherance of the foregoing, the Company shall take such actions as are necessary to give effect to the provisions of this Section 2(b), including without limitation, (i) in the case of a merger or consolidation, causing the definitive agreement relating to such merger or consolidation to provide for a rate at which the shares of Preferred Stock are converted into or exchanged for cash, new securities or other property that gives effect to the preferences and priorities set forth in Section 2(a) above or (ii) in the case of an asset sale, redeeming the Preferred Stock. The Company shall promptly provide to the holders of shares of Preferred Stock such information concerning the terms of such merger, consolidation or sale as may reasonably be requested by the holders of Preferred Stock. The amount deemed distributed to the holders of Preferred Stock upon any such transaction shall be the sum of any cash and the value of any property, rights or securities distributed to such holders by the Company or the acquiring person, firm or other entity, as applicable.

(c) Valuation. Any securities to be delivered pursuant to Section 2(b) above shall be valued as follows:

(i) For securities that are freely tradable under applicable securities laws:

(A) if such securities are traded on a securities exchange, the value shall be deemed to be the average of the closing prices of the securities on such exchange over the 30-day period ending three (3) days prior to the closing;

(B) if such securities are actively traded over-the-counter, the value shall be deemed to be the average of the closing bid or sale prices (whichever are applicable) over the 30-day period ending three (3) days prior to the closing; and

(C) if there is no active public market for such securities, the value shall be the fair market value thereof, as mutually determined by the Company and holders of Preferred Stock who are entitled to receive such securities (or the same type of securities) holding at least a majority of the collective voting power of all then outstanding shares of such Preferred Stock.

(ii) For securities that are not freely tradable or are subject to other restrictions on free marketability, the valuation shall be done in a manner to effect an appropriate discount from the market value determined as above in subparagraphs 2(c)(i)(A), (B) or (C) to reflect the approximate fair market value thereof, as mutually determined by the Company and holders of Preferred Stock who are entitled to receive such securities (or the same type of securities) holding at least a majority of the collective voting power of all then outstanding shares of such Preferred Stock.

3. Right of Redemption. Except as set forth in Section 2(b) of this Article V, the Company shall not have the right to call or redeem at any time all or any shares of Preferred Stock.

4. Conversion. The holders of Preferred Stock shall have conversion rights as follows (the “**Conversion Rights**”):

(a) Right to Convert.

(i) Series A’ Preferred. Subject to Section 4(b) below, each share of Series A’ Preferred shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share, at the office of the Company or any transfer agent for the Series A’ Preferred, into such number of fully paid and nonassessable shares of Voting Common as is determined by dividing the Series A’ Purchase Price by the Series A’ Conversion Price, determined as provided herein, in effect at the time of conversion (the “**Series A’ Conversion Rate**”). The “**Series A’ Purchase Price**” shall, as of the date of filing of this Eleventh Amended and Restated Certificate of Incorporation (the “**Filing Date**”), initially be \$2.73. The “**Series A’ Conversion Price**” shall initially, as of the Filing Date, initially be \$2.73. The Series A’ Purchase Price, after the date hereof, shall be subject to appropriate adjustments for any stock dividends, combinations, splits, recapitalizations and the like with respect to the Series A’ Preferred. The Series A’ Conversion Price and the Series A’ Conversion Rate shall be subject to adjustments as provided below.

(ii) Series A” Preferred. Subject to Section 4(b) below, each share of Series A” Preferred shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share, at the office of the Company or any transfer agent for the Series A” Preferred, into such number of fully paid and nonassessable shares of Non-Voting Common as is

determined by dividing the Series A" Purchase Price by the Series A" Conversion Price, determined as provided herein, in effect at the time of conversion (the "**Series A" Conversion Rate**"). The "**Series A" Purchase Price**" shall, as of the Filing Date, initially be \$2.73. The "**Series A" Conversion Price**" shall initially, as of the Filing Date, initially be \$2.73. The Series A" Purchase Price, after the date hereof, shall be subject to appropriate adjustments for any stock dividends, combinations, splits, recapitalizations and the like with respect to the Series A" Preferred. The Series A" Conversion Price and the Series A" Conversion Rate shall be subject to adjustments as provided below.

(iii) Series B' Preferred. Subject to Section 4(b) below, each share of Series B' Preferred shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share, at the office of the Company or any transfer agent for the Series B' Preferred, into such number of fully paid and nonassessable shares of Voting Common as is determined by dividing the Series B' Purchase Price by the Series B' Conversion Price, determined as provided herein, in effect at the time of conversion (the "**Series B' Conversion Rate**"). The "**Series B' Purchase Price**" shall, as of the Filing Date, initially be \$4.14. The "**Series B' Conversion Price**" shall initially, as of the Filing Date, initially be \$4.14. The Series B' Purchase Price, after the date hereof, shall be subject to appropriate adjustments for any stock dividends, combinations, splits, recapitalizations and the like with respect to the Series B' Preferred. The Series B' Conversion Price and the Series B' Conversion Rate shall be subject to adjustments as provided below.

(iv) Series B" Preferred. Subject to Section 4(b) below, each share of Series B" Preferred shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share, at the office of the Company or any transfer agent for the Series B" Preferred, into such number of fully paid and nonassessable shares of Non-Voting Common as is determined by dividing the Series B" Purchase Price by the Series B" Conversion Price, determined as provided herein, in effect at the time of conversion (the "**Series B" Conversion Rate**"). The "**Series B" Purchase Price**" shall, as of the Filing Date, initially be \$8.28. The "**Series B" Conversion Price**" shall initially, as of the Filing Date, initially be \$8.28. The Series B" Purchase Price, after the date hereof, shall be subject to appropriate adjustments for any stock dividends, combinations, splits, recapitalizations and the like with respect to the Series B" Preferred. The Series B" Conversion Price and the Series B" Conversion Rate shall be subject to adjustments as provided below.

(v) Non-Voting Common. Each share of the Non-Voting Common shall automatically be converted into one share of Voting Common, subject to appropriate adjustments for any stock dividends, combinations, splits, recapitalizations and the like with respect to the Common Stock, upon either (A) the closing of a firm commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, covering the offer and sale of Common Stock for the account of the Company to the public, or (B) the date or event specified in a written consent of the holders of more than 50% of the voting power of the shares of the Voting Preferred outstanding at the time such consent is obtained.

(b) Automatic Conversion of Preferred. Each share of the Preferred Stock shall automatically be converted into shares of Common Stock at the then effective Conversion Rate of

such series upon either (A) the closing of a firm commitment underwritten public offering (the “**IPO Closing Date**”) pursuant to an effective registration statement under the Securities Act of 1933, as amended, covering the offer and sale of Common Stock for the account of the Company to the public, so long as the offering price per share is not less than the product of the Series B’ Purchase Price multiplied by 1.5 and the aggregate gross proceeds to the Company are not less than \$40,000,000, or (B) the date or event specified in a written consent of the holders of more than 50% of the voting power of the shares of the Voting Preferred outstanding at the time such consent is obtained.

(c) Mechanics of Conversion. No fractional shares of Common Stock shall be issued upon conversion of Preferred Stock. In lieu of any fractional shares to which the holder would otherwise be entitled, the Company shall pay cash equal to such fraction multiplied by the fair market value of one share of Common Stock on the day of conversion, as determined by the Company’s Board of Directors. Before any holder of Preferred Stock shall be entitled to convert the same into full shares of Common Stock and to receive certificates therefor, such holder shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Company or of any transfer agent for the Preferred Stock, and shall give written notice to the Company at such office that such holder elects to convert the same; provided, however, that in the event of a conversion pursuant to Section 4(b), all outstanding shares of Preferred Stock to be converted shall be converted automatically without any further action by the holders of such shares and whether or not the certificates representing such shares are surrendered to the Company or its transfer agent; and provided further, that the Company shall not be obligated to issue certificates evidencing the shares of Common Stock issuable upon any conversion unless the certificates evidencing such shares of Preferred Stock are either delivered to the Company or its transfer agent as provided above, or the holder notifies the Company or its transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement and, if requested, provide security, satisfactory to the Company to indemnify the Company for losses incurred as a result of the loss of such certificates. The Company shall, as soon as practicable after such delivery, or such agreement, indemnification and security in the case of a lost certificate, issue and deliver to such holder of Preferred Stock a certificate or certificates for the shares of Common Stock to which such holder shall be entitled as aforesaid and a check payable to the holder in the amount of any cash amounts payable with respect to fractional shares. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of Preferred Stock to be converted, or, in the case of automatic conversion, on the date of closing of such initial public offering or Corporate Sale or the effective date of such written consent, as the case may be, and the person or persons entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock on such date.

(d) Adjustments to Conversion Price for Diluting Issues.

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

(A) “**Options**” shall mean rights, options or warrants to subscribe for, purchase or otherwise acquire either Common Stock or Convertible Securities. To the extent

that such rights, options or warrants when issued are not then exercisable, or the number of shares for which they are exercisable is not determinable, they shall not be considered Options until such time, if ever, they become exercisable or the number of shares for which they are exercisable becomes determinable, in either case whether by their terms or otherwise.

(B) “**Convertible Securities**” shall mean any securities of the Company (other than Common Stock) currently convertible into or exchangeable, directly or indirectly, for Common Stock. To the extent that securities when issued are not then convertible or exchangeable, or the number of shares into which they are convertible or exchangeable for is not determinable, they shall not be considered Convertible Securities until such time, if ever, they become convertible or exchangeable or the number of shares for which they are convertible or exercisable becomes determinable, in either case whether by their terms or otherwise.

(C) “**Additional Shares of Common Stock**” shall mean all shares of Common Stock issued (which shall include issuances or deemed issuances, pursuant to Section 4(d)(iii), of Options or Convertible Securities) by the Company on or after the Filing Date; provided, however, that “Additional Shares of Common Stock” shall not mean shares of Common Stock issued, issuable or, pursuant to Section 4(d)(iii), deemed to be issued:

(1) upon conversion of the Preferred Stock authorized herein or upon conversion of Convertible Securities outstanding on the Filing Date;

(2) to officers, directors or employees of, or consultants to, the Company pursuant to a stock grant, option plan or purchase plan or other stock incentive program, arrangement or agreement approved by the Board of Directors;

(3) as a dividend or distribution on Preferred Stock;

(4) in connection with placement agent services;

(5) in connection with lease or loan transactions, including equipment leases, approved by a majority of the Company’s Board of Directors (provided that such lease and loan transactions are not primarily equity financing transactions);

(6) in connection with business combinations, including combinations by merger or asset purchase or other reorganization, or corporate partnering arrangements, approved by a majority of the Company’s Board of Directors;

(7) in connection with a firm commitment public offering pursuant to a registration statement filed with the U.S. Securities and Exchange Commission;

(8) as a result of the issuance of shares of Series B’ Preferred issued pursuant to the transactions contemplated within the Series B’ Preferred Stock and Warrant Purchase Agreement, as may be amended (the “**Series B’ Purchase Agreement**”);

(9) as a result of the issuance of the warrants issued pursuant to the Series B' Purchase Agreement or that certain Placement Agent Agreement dated January 10, 2011 or the underlying shares issued upon exercise of such warrants;

(10) as a result of the issuance of the warrants issued in exchange for Convertible Securities outstanding on the Filing Date, or the underlying shares issued upon exercise of such warrants;

(11) in settlement of any obligations owed to Renaissance Development, LLC or of any disputes relating thereto; and

(12) in connection with any transaction for which adjustment is made pursuant to Sections 4(d)(iv), (v) or (vi) hereof.

(ii) Adjustment of Conversion Price Upon Issuance of Additional Shares of Common Stock.

(A) Preferred Stock. In the event the Company shall issue after the Filing Date Additional Shares of Common Stock without consideration or for a consideration per share less than the applicable Conversion Price of a series of Preferred Stock in effect on the date of and immediately prior to such issue, then, the Conversion Price of the affected series of Preferred Stock shall be reduced, concurrently with such issue, to a price (calculated to the nearest cent) determined by multiplying such Conversion Price by a fraction, the numerator of which shall be the number of shares of Common Stock outstanding immediately prior to such issuance (treating for this purpose as outstanding all shares of Common Stock issuable upon exercise of Options outstanding immediately prior to such issuance or upon conversion or exchange of Convertible Securities outstanding (assuming exercise of any outstanding Options therefor) immediately prior to such issuance) plus the number of shares of Common Stock which the aggregate consideration received by the Company for the total number of Additional Shares of Common Stock so issued would purchase at such Conversion Price, and the denominator of which shall be the number of shares of Common Stock outstanding immediately prior to such issuance (again treating for this purpose as outstanding all shares of Common Stock issuable upon exercise of Options outstanding immediately prior to such issuance or upon conversion or exchange of Convertible Securities outstanding (assuming exercise of any outstanding Options therefor) immediately prior to such issuance) plus the number of such Additional Shares of Common Stock so issued.

(B) For the purposes of this Section 4(d)(ii), the grant, issue or sale of all Additional Shares of Common Stock of the same class or series of security issued or issuable at the same price, plus any warrants to purchase such security issued or issuable in connection therewith, at more than one closing (each, a "Subsequent Closing") shall be aggregated and shall be treated as one sale of Additional Shares of Common Stock occurring on the earliest date on which such securities were granted, issued or sold; provided that the applicable Conversion Price of any Preferred Stock that is converted prior to a Subsequent Closing shall not reflect the Additional Shares of Common Stock issued or issuable in such Subsequent Closing when determining the applicable Conversion Price with respect to such conversion.

(iii) Determination of Consideration. For purposes of this Section 4(d), the consideration received by the Company for the issuance of any Additional Shares of Common Stock and the number of such Additional Shares of Common Stock shall be computed as follows:

(A) Cash and Property. Such consideration shall:

(1) insofar as it consists of cash, be computed as the aggregate amount of cash received by the Company without any deduction for commissions;

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

(3) in the event Additional Shares of Common Stock are issued together with other shares or securities or other assets of the Company for consideration which covers both, be the proportion of such consideration so received for the Additional Shares of Common Stock alone, computed as provided in clauses (1) and (2) above, as determined in good faith by the Board of Directors.

(B) Options and Convertible Securities. In the case of issuance of Options or Convertible Securities, the following provisions shall apply for all purposes of Section 4(d):

(1) The aggregate maximum number of shares of Common Stock deliverable upon exercise of Options shall be deemed to be Additional Shares of Common Stock issued at the time such Options were issued and for a consideration equal to the consideration (determined in the manner provided in subparagraph 4(d)(iii)(A)), if any, received by the Company upon the issuance of such Options plus the exercise price provided in such Options for the Common Stock covered thereby.

(2) The aggregate maximum number of shares of Common Stock deliverable upon conversion of or in exchange for such Convertible Securities or upon the exercise of Options to purchase or rights to subscribe for Convertible Securities and subsequent conversion or exchange thereof shall be deemed to be Additional Shares of Common Stock issued at the time such securities were issued or such Options were issued and for a consideration equal to the consideration, if any, received by the Company for any such Convertible Securities and related Options plus the additional consideration, if any, to be received by the Company upon the conversion or exchange of such securities or the exercise of any related Options (the consideration in each case to be determined in the manner provided in subparagraph 4(d)(iii)(A)).

(3) In the event of any change in the number of shares of Common Stock deliverable or in the consideration payable to this Company upon exercise of such Options or upon conversion of or in exchange for such Convertible Securities, including, but not limited to, a change resulting from the antidilution provisions thereof, the Conversion Price of each series of Preferred Stock, to the extent in any way affected by or computed using such Options or Convertible Securities, shall be recomputed to reflect such change, but no further adjustment shall be

made for the actual issuance of Common Stock or any payment of such consideration upon the exercise of any such Options or the conversion or exchange of such Convertible Securities.

(4) Upon the expiration of any such Options, the termination of any such rights to convert or exchange, or the expiration of any Options or rights related to, such Convertible Securities, the Conversion Price of each series of Preferred Stock to the extent in any way affected by or computed using such Options or Convertible Securities, shall be recomputed to reflect the issuance of only the number of shares of Common Stock (and Convertible Securities which remain in effect) actually issued upon the conversion or exchange of such Convertible Securities or upon the exercise of the Options related to such securities.

(5) The number of shares of Common Stock deemed issued and the consideration deemed paid therefor pursuant to subparagraphs 4(d)(iii)(B)(1) and (2) shall be appropriately adjusted to reflect any change, termination or expiration of the type described in either subparagraph 4(d)(iii)(B)(3) or (4).

(iv) Adjustments for Subdivisions or Combinations of or Stock Dividends on Common Stock. In the event the outstanding shares of Common Stock shall be subdivided (by stock split or otherwise) into a greater number of shares of Common Stock, or the Company at any time or from time to time after the Filing Date shall declare or pay any dividend on the Common Stock payable in Common Stock, the Conversion Rate of each series of Preferred Stock then in effect shall, concurrently with the effectiveness of such subdivision or stock dividend, be proportionately increased based on the ratio of (A) the number of shares of Common Stock outstanding immediately after such subdivision or stock dividend to (B) the number of shares of Common Stock outstanding immediately prior to such subdivision or stock dividend. In the event the outstanding shares of Common Stock shall be combined or consolidated, by reclassification or otherwise, into a lesser number of shares of Common Stock after the Filing Date, the Conversion Rate of each series of Preferred Stock then in effect shall, concurrently with the effectiveness of such combination or consolidation, be proportionately decreased on the same basis.

(v) Adjustments for Other Distributions. In the event the Company at any time or from time to time after the Filing Date makes, or fixes a record date for the determination of holders of Common Stock entitled to receive, any distribution payable in (A) securities of the Company or other entities (other than shares of Common Stock and other than as otherwise adjusted in this Section 4 or as otherwise provided in Section 1), (B) evidences of indebtedness issued by the Company or other persons, or (C) assets (excluding cash dividends) or options or rights not referred to in subparagraph 4(e)(iii)(B), then and in each such event provision shall be made so that the holders of Preferred Stock shall receive upon conversion thereof, in addition to the number of shares of Common Stock receivable thereupon, the amount of such distribution that they would have received had their Preferred Stock been converted into Common Stock on the date of such event and had they thereafter, during the period from the date of such event to and including the date of conversion, retained such securities receivable by them as aforesaid during such period, subject to all other adjustments called for during such period under this Section 4 with respect to the rights of the holders of Preferred Stock.

(vi) Adjustments for Recapitalization, Reclassification, Exchange and Substitution. If at any time or from time to time after the Filing Date the Common Stock issuable upon conversion of the Preferred Stock shall be changed into the same or a different number of shares of any other class or classes of stock, whether by recapitalization, capital reorganization, reclassification or otherwise (other than a subdivision, combination of shares or merger or sale of assets transaction provided for above or in Section 2(b)), the Conversion Rate of each series of Preferred Stock then in effect shall, concurrently with the effectiveness of such recapitalization, reorganization or reclassification, be proportionately adjusted such that the Preferred Stock shall be convertible into, in lieu of the number of shares of Common Stock that the holders thereof would otherwise have been entitled to receive, a number of shares of such other class or classes of stock equivalent to the number of shares of Common Stock that would have been subject to receipt by the holders upon conversion of the Preferred Stock immediately before that change. In addition, to the extent applicable in any reorganization or recapitalization, provision shall be made so that the holders of Preferred Stock shall thereafter be entitled to receive upon conversion of the Preferred Stock the number of shares of stock or other securities or property of the Company or otherwise to which a holder of Common Stock deliverable upon conversion would have been entitled on such reorganization or recapitalization.

(e) Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the Conversion Price or Conversion Rate of any series of Preferred Stock pursuant to this Section 4, the Company at its expense shall promptly compute such adjustment or readjustment in accordance with the terms hereof and furnish to each holder of Preferred Stock a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Company shall, upon the written request at any time of any holder of Preferred Stock, furnish or cause to be furnished to such holder a like certificate setting forth (i) such adjustments and readjustments, (ii) the respective Conversion Price and the Conversion Rate at the time in effect and (iii) the number of shares of Common Stock and the amount, if any, of other property which at the time would be received upon the conversion of the Preferred Stock.

(f) Reservation of Stock Issuable Upon Conversion. The Company shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock solely for the purpose of effecting the conversion of the shares of Preferred Stock such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of the 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 Preferred Stock, in addition to such other remedies as shall be available to the holder of such Preferred Stock, the Company will take such corporate action as may, in the opinion of counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes.

(g) Notices of Record Date. In the event that the Company shall propose at any time:

(i) to declare any dividend or distribution upon any class of its securities, whether in cash, property, stock or other securities, whether or not a regular cash dividend and whether or not out of earnings or earned surplus;

(ii) to effect any reclassification or recapitalization of its Common Stock;
or

(iii) to effect a Corporate Sale or other Liquidation,

then the Company shall provide to each holder of Preferred Stock:

(A) in the case of the matters referred to in (i) and (ii) above, at least 20 days' prior written notice of the date on which a record shall be taken for such dividend, distribution or subscription rights (and specifying the date on which the holders of Common Stock shall be entitled thereto and the amount and character of such dividend, distribution or right); and

(B) in the case of the matters referred to in (iii) above, at least 20 days' prior written notice of the date when the same shall take place (and specifying the date on which the holders of Common Stock shall be entitled to exchange their Common Stock for securities or other property deliverable upon the occurrence of such event or the record date for the determination of such holders if such record date is earlier).

Each such written notice shall be delivered personally or given by first class mail, postage prepaid, addressed to the holders of Preferred Stock at the address for each such holder as shown on the books of the Company.

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

(i) Adjustment in Authorized Common Stock. The number of authorized shares of Common Stock, including any series thereof, may be increased or decreased (but not below the number of shares of Common Stock then outstanding) by an affirmative vote of the holders of a majority of the outstanding shares of capital stock of the Company (each share having such number of votes as such share would be able to cast on an as-converted to Common Stock basis), without separate vote of the holders of Common Stock alone.

5. Covenants.

(a) Preferred Stock. In addition to any other rights provided by law, so long as any shares of Voting Preferred are outstanding, the Company shall not, without first obtaining the affirmative vote or written consent of the holders of at least a majority of the then-outstanding voting power of the Voting Preferred, voting together as a single class (each share having such number of votes as such share would be able to cast on an as-converted to Voting Common basis):

(i) amend, alter or repeal any right, preference or privilege of the Preferred Stock in this Certificate of Incorporation;

(ii) amend, alter or repeal any provision, or add any provision to, the Bylaws, if such action would amend, alter or repeal any right, preference or privilege of the Preferred Stock;

(iii) pay or declare any dividend on any shares of Common Stock or Preferred Stock or apply any of its assets to the redemption, retirement, purchase or acquisition, directly or indirectly, through subsidiaries or otherwise, of any shares of Common Stock or Preferred Stock; provided that this restriction shall not apply to the repurchase of shares of Common Stock approved by the Company's Board of Directors from employees, officers, directors, consultants or other persons performing services for the Company or any subsidiary pursuant to agreements under which the Company has the option to repurchase such shares;

(iv) authorize or issue any securities (including but not limited to any Options or Convertible Securities as defined in Section 4(d) hereof, but excluding any debt securities that (A) are not currently convertible into equity, (B) are convertible into a number of shares of equity securities that is not currently determinable, or (C) do not otherwise contain any equity features) having any preference or priority as to rights or privileges superior to the Series B' Preferred or are issued an effective price per share less than the Series B' Purchase Price (excluding any securities issued to officers, directors or employees of, or consultants to, the Company pursuant to a stock grant, option plan or purchase plan or other stock incentive program, arrangement or agreement approved by the Board of Directors); or

(v) issue, in a single transaction or series of related transactions, more than \$7.0 million of securities of the Company.

(b) Series A' Preferred. In addition to the foregoing,

(i) in the event any action set forth in (a)(i) or (ii) would have a material, adverse and disproportionate effect on Series A' Preferred compared to the Series B' Preferred, the Company shall not take such action, without first obtaining the affirmative vote or written consent of the holders of more than 50% of the then-outstanding shares of the Series A' Preferred, voting as a separate class; and

(ii) in the event the Company desires to effect a Corporate Sale, Liquidation or dissolution of the Company in which the holders of the Series A' Preferred would receive per share consideration of less than the Series A' Purchase Price, the Company shall not take such action, without first obtaining the affirmative vote or written consent of the holders of more than 50% of the then-outstanding shares of the Series A' Preferred, voting as a separate class.

(c) Series B' Preferred. In addition to the foregoing,

(i) in the event any action set forth in (a)(i) or (ii) would have a material, adverse and disproportionate effect on Series B' Preferred compared to the Series A' Preferred, the Company shall not take such action, without first obtaining the affirmative vote or written consent of

the holders of more than 50% of the then-outstanding shares of the Series B' Preferred, voting as a separate class; and

(ii) in the event the Company desires to effect a Corporate Sale, Liquidation or dissolution of the Company in which the holders of the Series B' Preferred would receive per share consideration of less than the Series B' Purchase Price, the Company shall not take such action, without first obtaining the affirmative vote or written consent of the holders of more than 50% of the then-outstanding shares of the Series B' Preferred, voting as a separate class.

6. Voting Rights.

(a) Election of Directors.

(i) The number of directors that constitutes the entire Board of Directors of the Company shall be determined in the manner set forth in the Bylaws of the Company. At each annual meeting of stockholders, directors of the Company shall be elected to hold office until the expiration of the term for which they are elected and until their successors have been duly elected and qualified; except that if any such election shall not be so held, such election may take place at a stockholders' meeting called and held in accordance with the General Corporation Law of the State of Delaware (the "DGCL"). Prior to the closing of the Company's initial public offering pursuant to an effective registration statement under the Securities Act, covering the offer and sale of Common Stock for the account of the Company to the public, the various classes and series of the Company's capital stock shall be entitled to the following specific voting rights with respect to the election of the Board of Directors:

(A) The Voting Preferred, voting as one class, shall be entitled to elect five (5) members of the Board of Directors.

(B) The Voting Common, voting as one class, shall be entitled to elect one member of the Board of Directors.

(C) The Voting Common and the Voting Preferred, voting as one class, shall be entitled to elect all other members of the Board of Directors.

(ii) Any vacancy in the Board of Directors occurring because of death, resignation or removal of a director elected by the holders of a specific class or series shall be filled by the vote or written consent of the holders of such class or series. A director may be removed with or without cause only by the vote or consent of the holders of the outstanding class or series with voting power entitled to elect him or her in accordance with the DGCL.

(b) Other Matters. On all other matters, except as otherwise required by law, holders of the Voting Preferred shall have full voting rights and powers equal to the voting rights and powers of the holders of Voting Common, and shall be entitled to vote, together with the holders of Voting Common, with respect to any matters upon which holders of Voting Common have the right to vote. Except as otherwise provided herein, each share of Voting Common issued and outstanding shall entitle its holder to one vote, and each share of Voting Preferred shall entitle its holder to the number of votes equal to the number of shares of Voting Common into which such

share of Voting Preferred could be converted at the record date for determination of the stockholders entitled to vote on such matter, or, if no such record date is established, at the date such vote is taken or any written consent of stockholders is effective, such votes to be counted together with all other shares of stock of the Company having general voting power and not separately as a class. Fractional votes by the holders of Preferred Stock shall not, however, be permitted, and any fractional voting rights shall (after aggregating all shares into which shares of Preferred Stock held by each holder could be converted) be rounded to the nearest whole number.

(c) **Non-Voting Stock.** The Non-Voting Common, the Series A” Preferred and the Series B” Preferred are non-voting shares of the Company and as such the holders of Non-Voting Common, Series A” Preferred or Series B” Preferred are not entitled to vote on any matter other than as required by law.

(d) Holders of Common Stock and Preferred Stock shall be entitled to notice of any stockholders’ meeting in accordance with the Bylaws of the Company.

7. Reissuance of Preferred Stock. In the event that any shares of Preferred Stock shall be converted pursuant to Section 4, repurchased or otherwise reacquired by the Company, the shares so converted, repurchased or otherwise reacquired shall be cancelled and shall not be re-issuable by the Company.

ARTICLE VI

1. The Company is to have perpetual existence.

2. The business and affairs of the Company shall be managed by or under the direction of the Board of Directors. In addition to the powers and authority expressly conferred upon them by statute or by this Tenth Amended and Restated Certificate of Incorporation or the Bylaws of the Company, the directors are hereby empowered to exercise all such powers and do all such acts and things as may be exercised or done by the Company.

ARTICLE VII

Elections of directors need not be by written ballot, unless a stockholder demands election by written ballot at the meeting before voting begins or unless the Bylaws of the Company shall so provide.

ARTICLE VIII

In furtherance and not in limitation of the powers conferred by statute and except as provided in Article V, Section 5 hereof, the Company’s Board of Directors is expressly authorized to make, alter, amend or repeal the Bylaws of the Company.

ARTICLE IX

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

2. The Company may indemnify to the fullest extent permitted by law any person made or threatened to be made a party to an action or proceeding, whether criminal, civil, administrative or investigative, by reason of the fact that he, his testator or intestate is or was a director, officer or employee of the Company or any predecessor of the Company or serves or served at any other enterprise as a director, officer or employee at the request of the Company or any predecessor to the Company.

3. Neither any amendment nor repeal of this Article IX, nor the adoption of any provision of this Certificate of Incorporation inconsistent with this Article IX, shall eliminate or reduce the effect of this Article IX, in respect of any matter occurring, or any action or proceeding accruing or arising or that, but for this Article IX, would accrue or arise, prior to such amendment, repeal or adoption of an inconsistent provision.

ARTICLE X

Meetings of the stockholders may be held within or without the State of Delaware, as the Bylaws may provide. The books of the Company may be kept (subject to any provision contained in the statutes) outside of the State of Delaware at such place or places as may be designated from time to time by the Company's Board of Directors or in the Bylaws of the Company.

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