

**AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
AWS CONVERGENCE TECHNOLOGIES, INC.**

AWS Convergence Technologies, Inc., a corporation organized and existing under the General Corporation Law of the State of Delaware (the "**Corporation**") DOES HEREBY CERTIFY:

FIRST: The original Certificate of Incorporation of AWS Convergence Technologies, Inc. was filed with the Secretary of State of the State of Delaware on June 1, 2000, and was previously amended and restated effective as of May 3, 2002 and September 23, 2002.

SECOND: This Amended and Restated Certificate of Incorporation has been duly adopted in accordance with the provisions of Sections 242 and 245 of the General Corporation Law of the State of Delaware (the "**DGCL**") by the directors and stockholders of the Corporation, and restates, integrates and further amends the provisions of the Corporation's Certificate of Incorporation.

THIRD: The text of the Certificate of Incorporation is amended and restated in its entirety to read as follows:

ARTICLE I

The name of the Corporation is AWS Convergence Technologies, Inc.

ARTICLE II

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

ARTICLE III

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

ARTICLE IV

The total number of shares of capital stock which the Corporation shall have the authority to issue is 13,189,751, of which (i) 6,800,000 shares shall be Class A common stock, par value \$.01 per share (the "**Class A Common Stock**"), (ii) 2,614,751 shares shall be Class B

common stock, par value \$.01 per share (the "**Class B Common Stock**"; together with the Class A Common Stock, the "**Common Stock**"), (iii) 2,500,000 shares shall be Series A Convertible Preferred Stock, par value \$.01 per share (the "**Series A Preferred**"), and (iv) 1,275,000 shares shall be Series B Convertible Preferred Stock, par value \$.01 per share (the "**Series B Preferred**"; together with the Series A Preferred, the "**Preferred Stock**").

Subject to the protective provisions of Section B.5 and irrespective of any contrary provisions contained in Section 242(b)(2) of the DGCL, the number of authorized shares of Common Stock or Preferred Stock may be increased or decreased (but not below the number of shares then outstanding) by the affirmative vote of the holders of a majority of the stock of the Corporation entitled to vote thereon.

A. Common Stock. Except as otherwise provided by the DGCL or by this Certificate of Incorporation:

1. the holders of the Class A Common Stock shall have the right to vote for the election of directors to the Board of Directors of the Corporation (the "**Board of Directors**") and on all other matters requiring stockholder action, each share of Class A Common Stock being entitled to one vote;
2. the Class B Common Stock shall not be entitled to any voting rights, and each share of Class B Common Stock shall otherwise have the attributes of four-tenths of one share (0.4) of Class A Common Stock;
3. dividends may be declared and paid or set apart for payment upon the Common Stock out of any assets or funds of the Corporation legally available for the payment of dividends, but only when and as declared by the Board of Directors or any authorized committee thereof, and such dividends shall be payable proportionately, such that each share of Class B Common Stock shall be entitled to receive the dividends payable on four-tenths of one share (0.4) of Class A Common Stock and each share of Class A Common Stock shall be entitled to receive two hundred and fifty percent (250%) of any dividends payable on a share of Class B Common Stock;
4. upon the voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the net assets of the Corporation shall be distributed pro rata to the holders of the Common Stock in accordance with their respective rights and interests, such that each share of Class B Common Stock shall be entitled to receive the distributions payable on four-tenths of one share (0.4) of Class A Common Stock and each share of Class A Common Stock shall be entitled to receive two hundred and fifty percent (250%) of any distributions payable on a share of Class B Common Stock; and
5. the Corporation has the option, at any time, and upon the election of the Board of Directors or any authorized committee thereof, to redeem all, but not less than all, of the issued and outstanding shares of Class B Common Stock whereupon the Corporation shall issue four-tenths of one share (0.4) of Class A Common Stock in exchange for each share of Class B Common Stock redeemed. Upon the exercise of such option, any right to receive a share

of Class B Common Stock shall be converted into a right to receive four-tenths of one share (0.4) of Class A Common Stock.

B. Preferred Stock. Unless otherwise specifically provided herein, the Series A Preferred and Series B Preferred shall rank *pari passu* with respect to dividend rights, rights upon liquidation, winding up or dissolution, and redemption rights, taking into account their respective Liquidation Prices (as defined below) (subject to the additional amount, if any, payable to holders of Series A Preferred pursuant to Section B.2(a)(i)(y)) and Redemption Prices (as defined below). The powers, preferences and rights, and the qualifications, limitations or restrictions of the Preferred Stock are as follows:

1. Dividends. (a) Base Dividends. The holders of Preferred Stock shall be entitled to receive, out of funds legally available therefor, cumulative cash dividends at the rate equal to the applicable Preferred Dividend Rate (as defined below) before any dividend or Distribution (as defined below) is declared and paid on shares of Common Stock. The “**Preferred Dividend Rate**” shall be (i) with respect to the Series A Preferred, eight percent (8%) per annum of the Series A Initial Purchase Price (as defined below) (as may be appropriately adjusted for any stock dividend, stock split, recapitalization or consolidation) for the period beginning on the Series A Original Issuance Date (as defined below) to the Series B Original Issuance Date (as defined below) (the “**Prior Series A Dividends**”), and thereafter, six percent (6%) per annum of the Series A Liquidation Price (as defined below) (as may be appropriately adjusted for any stock dividend, stock split, recapitalization or consolidation) beginning on the Series B Original Issuance Date, and (ii) with respect to the Series B Preferred, six percent (6%) per annum of the Series B Liquidation Price (as defined below) (as may be appropriately adjusted for any stock dividend, stock split, recapitalization or consolidation). The dividends that accrue on the Preferred Stock after the Series B Original Issuance Date are sometimes referred to herein as the “**Post-Closing Dividends**.” “**Distribution**” shall mean the transfer of cash or property by the Corporation to one or more of its stockholders without consideration, whether by dividend or otherwise (except a dividend in shares of the Corporation’s stock), except with respect to employees of the Corporation upon termination of their employment or services. The Preferred Stock dividends shall begin accruing upon the issuance of the applicable series of Preferred Stock, and will accrue quarterly in arrears. Accrued and unpaid dividends, shall be paid when, as and if declared by the Board of Directors out of funds legally available for the purpose. The Board of Directors may fix a record date for the determination of holders of Preferred Stock entitled to receive payment of a dividend declared thereon, which record date shall be not more than 60 days prior to the date fixed for the payment thereof (in accordance with the terms of this Section B.1). The Corporation shall not pay dividends on or make any other Distribution on the Common Stock until all accrued but unpaid dividends on the Preferred Stock have been declared and paid or set apart.

(b) Additional Dividends. After all accrued but unpaid dividends on the Preferred Stock have been declared and paid or set apart pursuant to Section B.1(a), if the Board of Directors shall elect to declare additional dividends, such additional dividends

shall be declared in equal amounts per share on all shares of the Preferred Stock and the Class A Common Stock and in an amount on each share of Class B Common Stock equal to the dividends payable on four-tenths of one share (0.4) of Class A Common Stock, but with each share of the Preferred Stock being entitled to dividends based on the number of shares of Class A Common Stock into which such share of Preferred Stock could be converted as of the record date for the determination of stockholders entitled to receive such dividend or, if no record date is established, on the date such dividend is declared.

(c) Forfeit of Dividends. Notwithstanding anything to the contrary herein, in the event of a Qualified Offering (as defined herein) or a Qualified Liquidation Event (as defined herein with respect to the applicable series of Preferred Stock), all accrued and unpaid dividends will be forfeited by the holders of the Preferred Stock.

(d) Non-Cash Dividends. Whenever a dividend or Distribution provided for in this Section B.1 shall be payable in property other than cash, the value of such dividend or Distribution shall be deemed to be the fair market value of such property as determined in good faith by the Board of Directors.

2. Liquidation Preference. (a) Series A Preference. Upon any liquidation, dissolution or winding up of the affairs of the Corporation (a “**Liquidation Event**”), no distribution shall be made to the holders of the Common Stock unless, prior to the first such distribution, the holders of Series B Preferred shall have received the amount set forth in Section B.2(b) below and the holders of Series A Preferred shall have received an amount equal to the greater of:

- (i) the sum of: (x) \$6.00 per share of Series A Preferred (as appropriately adjusted for any stock dividend, stock split, recapitalization or consolidation affecting the Series A Preferred) plus all accrued but unpaid dividends, whether or not declared, on the Series A Preferred (the “**Series A Liquidation Price**”) and (y) any additional amount payable to such holder of Series A Preferred if, after the payments referred to in Sections B.2(a)(i)(x) and B.2(b)(i) have been made in full to all holders of Preferred Stock, the remaining assets available for distribution were distributed among the holders of Series A Preferred (as if they had converted all their shares of Series A Preferred into Class A Common Stock in accordance with the provisions of Section B.3 immediately prior to such Liquidation Event) and Common Stock ratably in proportion to the number of shares of Common Stock held by each of them while giving effect to Article IV, Section A.4 (subject to, but only to the extent that the amount payable under this Section B.2(a)(i)(y), together with the amount payable pursuant to Section B.2(a)(i)(x), does not exceed \$18.00 per share of Series A Preferred (as appropriately adjusted for any stock dividend, stock split, recapitalization or consolidation affecting the Series A Preferred)); and
- (ii) an amount per share of Series A Preferred as would have been payable had all shares of Series A Preferred been converted into Class A Common

Stock pursuant to the provisions of Section B.3 immediately prior to such Liquidation Event (a Liquidation Event in which this Section B.2(a)(ii) applies shall be deemed a “**Qualified Liquidation Event**” in respect of the Series A Preferred for purposes of Section B.1(c)).

(b) Series B Preference. Upon any Liquidation Event, no distribution shall be made to the holders of the Common Stock unless, prior to the first such distribution, the holders of Series A Preferred shall have received the amount set forth in Section B.2(a) above and the holders of Series B Preferred Stock shall have received an amount equal to the greater of:

- (i) \$18.35 per share of Series B Preferred (as appropriately adjusted for any stock dividend, stock split, recapitalization or consolidation affecting the Series B Preferred) plus all accrued but unpaid dividends, whether or not declared, on the Series B Preferred (the “**Series B Liquidation Price**”); and
- (ii) an amount per share of Series B Preferred as would have been payable had all shares of Series B Preferred been converted into Class A Common Stock pursuant to the provisions of Section B.3 immediately prior to such Liquidation Event (a Liquidation Event in which this Section B.2(b)(ii) applies shall be deemed a “**Qualified Liquidation Event**” in respect of the Series B Preferred for purposes of Section B.1(c)).

(c) Priority of Liquidation Payments. If the assets distributable in any such Liquidation Event to the holders of the Preferred Stock are insufficient to permit the payment to such holders of the full preferential amounts to which they may be entitled pursuant to Sections B.2(a)(i)(x) and B.2(b)(i), such assets shall be distributed as follows (subject to Section B.1(c) hereof):

- (i) Before any distribution or payment shall be made pursuant to Section B.2(c)(ii), Section B.2(c)(iii), Section B.2(a)(i)(y) or Section A, the holders of Series A Preferred and Series B Preferred shall be entitled to receive an amount per share equal to the Series A Initial Purchase Price and Series B Initial Purchase Price, respectively. In the event that the assets distributable in any such Liquidation Event to the holders of the Preferred Stock are insufficient to permit the payment to such holders of the full preferential amounts set forth in this Section B.2(c)(i), such assets shall be distributed ratably, on an equal priority, *pari passu* basis, among the holders of the Preferred Stock in proportion to the preferential amount each such holder would otherwise be entitled to receive pursuant to this Section B.2(c)(i).
- (ii) After the payments in Section B.2(c)(i) have been made in full, but before any distribution or payment shall be made pursuant to Section B.2(c)(iii), Section B.2(a)(i)(y) or Section A, the holders of Series A Preferred shall

be entitled to receive an amount per share equal to the Prior Series A Dividends accrued but unpaid, whether or not declared, on such share. In the event that the assets distributable in any such Liquidation Event to the holders of the Preferred Stock are insufficient to permit the payment to the holders of Series A Preferred of the full preferential amount set forth in this Section B.2(c)(ii), the assets remaining after full distribution pursuant to Section B.2(c)(i) shall be distributed ratably, on an equal priority, *pari passu* basis, among the holders of Series A Preferred Stock in proportion to the preferential amount each such holder would otherwise be entitled to receive pursuant to this Section B.2(c)(ii).

- (iii) After the payments in Sections B.2(c)(i) and B.2(c)(ii) have been made in full, but before any distribution or payment shall be made pursuant to Section B.2(a)(i)(y) or Section A, the holders of Series A Preferred and Series B Preferred shall be entitled to receive an amount per share equal to the Post-Closing Dividends accrued but unpaid, whether or not declared, on such share as of the date of such Liquidation Event. In the event that the assets distributable in any such Liquidation Event to the holders of the Preferred Stock are insufficient to permit the payment to such holders of the full preferential amounts set forth in this Section B.2(c)(iii), the assets remaining after full distribution pursuant to Sections B.2(c)(i) and B.2(c)(ii) shall be distributed ratably, on an equal priority, *pari passu* basis, among the holders of the Preferred Stock in proportion to the preferential amount each such holder would otherwise be entitled to receive pursuant to this Section B.2(c)(iii).

(d) Deemed Liquidation. For purposes of this Section B.2, (i) the sale, conveyance, exchange, exclusive license or other transfer of all or substantially all of the intellectual property or assets of the Corporation, (ii) any acquisition of the Corporation in which the Corporation is a party, by means of a consolidation, stock exchange, merger or other form of corporate reorganization of the Corporation with any other corporation in which the Corporation's stockholders immediately prior to such stock exchange, merger or other reorganization own less than a majority of the voting securities of the surviving entity immediately following such transaction or (iii) any transaction or series of related transactions in which the Corporation is a party, to a person or group of persons (other than an underwriter of the Corporation's securities), following which such person or group of persons would hold more than 50% of the outstanding voting stock of the Corporation (any such event, a "**Change of Control**") shall be deemed a Liquidation Event.

(e) Valuation of Non-Cash Property. Whenever any distribution provided for in this Article IV shall be payable in securities or property other than cash, then the value of such distribution shall be the fair market value of such distribution as determined in good faith by the Board of Directors, except that any publicly-traded securities to be distributed to stockholders will be valued as follows:

(i) Securities not subject to investment letter or other similar restrictions on free marketability:

(1) If 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 thirty (30)-day period ending three (3) calendar days prior to the closing; and

(2) If 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 thirty (30)-day period ending three (3) calendar days prior to the closing.

(ii) The method of valuation of securities subject to investment letter or other restrictions on free marketability (other than restrictions arising solely by virtue of a stockholder's status as an affiliate or former affiliate) shall be to make an appropriate discount from the market value determined as above in Sections B.2(e)(i)(1) and (2) to reflect the approximate fair market value thereof, as determined in good faith by the Board of Directors.

3. Conversion. The Preferred Stock shall be convertible as follows:

(a) Right to Convert. Each share of Series A Preferred shall be convertible, without the payment of any additional consideration by the holder thereof and at the option of the holder thereof, at any time at the office of the Corporation or any transfer agent for the Series A Preferred, into the number of fully paid and nonassessable shares of Class A Common Stock determined by dividing \$6.00 (the "**Series A Initial Purchase Price**") by the Series A Conversion Price (as defined below) in effect at the time of conversion. The "**Series A Conversion Price**" shall initially be the Series A Initial Purchase Price, and shall be adjusted and readjusted from time to time as provided in this Section B.3. Each share of Series B Preferred shall be convertible, without the payment of any additional consideration by the holder thereof and at the option of the holder thereof, at any time at the office of the Corporation or any transfer agent for the Series B Preferred, into the number of fully paid and nonassessable shares of Class A Common Stock determined by dividing \$18.35 (the "**Series B Initial Purchase Price**"; together with the Series A Initial Purchase Price, each an "**Initial Purchase Price**") by the Series B Conversion Price (as defined below) in effect at the time of conversion. The "**Series B Conversion Price**" shall initially be the Series B Initial Purchase Price, and shall be adjusted and readjusted from time to time as provided in this Section B.3. The Series A Conversion Price and the Series B Conversion Price are each sometimes referred to herein as a "**Conversion Price**." Certain capitalized terms used in this Section B.3 have the meanings specified in paragraph (d) of this Section B.3.

(b) Automatic Conversion. Each share of Preferred Stock shall automatically be converted into fully paid and nonassessable shares of Class A Common Stock at the then effective Conversion Price applicable to such share of Preferred Stock upon the earlier to occur of: (i) with respect to the Series A Preferred or the Series B Preferred, as may be applicable, the date specified in a written election of the holders of at least a

majority of the applicable series of Preferred Stock that wishes to convert then outstanding with respect to such series of Preferred Stock or (ii) the closing of a firm commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended (the “**Securities Act**”), covering the offer and sale of Common Stock at a price per share of Common Stock, prior to underwriting commissions, of at least two times the Series B Initial Purchase Price (as appropriately adjusted for any stock split, dividend, combination, recapitalization or the like), with an aggregate offering price, prior to underwriting commissions, of not less than \$50 million (a “**Qualified Offering**”) (in the event of which Qualified Offering, the person(s) entitled to receive the Class A Common Stock issuable upon such conversion of the Preferred Stock shall not be deemed to have converted such Preferred Stock until immediately prior to the closing of such offering).

(c) Mechanics of Conversion. No fractional shares of Class A Common Stock shall be issued upon conversion of the 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 then effective Conversion Price applicable to such share of Preferred Stock. Before any holder of Preferred Stock shall be entitled to convert the same into Class A Common Stock (or, in the case of automatic conversion of Preferred Stock pursuant to Section B.3(b) hereof, before any holder of such Preferred Stock so converted shall be entitled to receive a certificate or certificates evidencing the shares of Class A Common Stock upon such conversion), such holder shall surrender to the Corporation at the office of the Corporation or of any transfer agent for the Preferred Stock, the certificate or certificates representing such Preferred Stock, accompanied by written notice to the Corporation that such holder elects to convert all or a specified number of such shares (or, in the case of such automatic conversion, such holder is surrendering the same) and stating therein such holder’s name or the name or names of such holder’s nominees in which such holder wishes the certificate or certificates for Class A Common Stock to be issued. The Corporation shall, as soon as practicable thereafter, issue and deliver at such office to such holder of Preferred Stock, or to such holder’s nominee or nominees, a certificate or certificates representing the number of shares of Class A Common Stock to which such holder shall be entitled as aforesaid, together with cash in lieu of any fractional share and, if less than the full number of shares of Preferred Stock evidenced by such surrendered certificate or certificates are being converted, a new certificate or certificates, of like tenor, for the number of shares of Preferred Stock evidenced by such surrendered certificate less the number of such shares being converted. Any conversion made at the election of a holder of Preferred Stock shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the Preferred Stock to be converted, and the person or persons entitled to receive the Class A Common Stock issuable upon conversion shall be treated for all purposes as the record holder or holders of such Class A Common Stock on such date. If the conversion is in connection with an underwritten offer of securities registered pursuant to the Securities Act, the conversion may, at the option of any holder tendering Preferred Stock for conversion, be conditioned upon the closing with the underwriter of the sale of securities pursuant to such offering, in which event the person(s) entitled to

receive the Class A Common Stock issuable upon such conversion of the Preferred Stock shall not be deemed to have converted such Preferred Stock until immediately prior to the closing of such sale of securities.

(d) Adjustments to Conversion Price for Diluting Issues.

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

(1) **“Options”** shall mean rights, options or warrants to subscribe for, purchase or otherwise acquire either Additional Shares of Common Stock or Convertible Securities.

(2) **“Original Issue Date”** shall mean, with respect to the Series A Preferred, the date on which a share of Series A Preferred was first issued (the **“Series A Original Issue Date”**) and with respect to the Series B Preferred, the date on which a share of Series B Preferred was first issued (the **“Series B Original Issue Date”**).

(3) **“Convertible Securities”** shall mean any evidences of indebtedness, shares (other than shares of Common Stock) or other securities directly or indirectly convertible into or exchangeable for Additional Shares of Common Stock.

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

(A) Class A Common Stock issued or issuable upon conversion of the Preferred Stock or the Class B Common Stock;

(B) up to 2,614,751 shares of Class B Common Stock issued or issuable to directors, officers or employees of, or consultants to, the Corporation pursuant to a stock purchase or option plan or other employee stock incentive program, as appropriately adjusted for any stock dividend, stock split, recapitalization, consolidation or the like;

(C) Common Stock issued or issuable as a dividend or distribution on the Preferred Stock;

(D) Common Stock issued or issuable by way of dividend or distribution on shares of Common Stock excluded from the definition of Additional Shares of Common Stock by this Section B.3(d)(i)(4);

(E) Common Stock issued or issuable in connection with a transaction for which the holders of the majority of the outstanding shares of the applicable series of Preferred Stock have provided a written waiver pursuant to Section B.3(j);

(F) Common Stock issued or issuable upon the exercise or conversion of Options or Convertible Securities that are outstanding on the date of filing of this Certificate of Incorporation with the Secretary of State of the State of Delaware; and

(G) Common Stock issued or issuable as part of any adjustment of a Conversion Price pursuant to Section B.3(d)(iii).

Notwithstanding anything of the foregoing to the contrary, for purposes of the calculations pursuant to this Section B.3, the issuance of a share of Class B Common Stock shall be treated as the issuance of four-tenths of one share (0.4) of Class A Common Stock.

(5) **“Common Stock Deemed Outstanding”** shall mean the number of shares of Class A Common Stock actually outstanding at such time, plus the number of shares of Class A Common Stock issuable upon the exercise, exchange or conversion of all outstanding securities exercisable or exchangeable for, or convertible into, shares of Class A Common Stock (including shares of Class A Common Stock issuable upon the redemption of the Class B Common Stock).

(ii) Deemed Issue of Additional Shares of Common Stock.

(1) Options and Convertible Securities. In the event the Corporation at any time, or from time to time after the applicable Original Issue Date, shall issue, sell, grant or assume any Options or Convertible Securities or shall fix a record date for the determination of holders of any class of securities entitled to receive any such Options or Convertible Securities, then, and in each such case, the maximum number of shares of Common Stock (as set forth in the instrument relating thereto without regard to any provisions contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or, in the case of Convertible Securities and Options therefor, the conversion or exchange of such Convertible Securities, shall be deemed to be Additional Shares of Common Stock issued as of the time of such issue, sale, grant or assumption or, in case such a record date shall have been fixed, as of the close of business on such record date (unless such shares are excluded from the definition of Additional Shares of Common Stock pursuant to Section B.3(d)(i)(4)), provided that in any such case in which Additional Shares of Common Stock are deemed to be issued:

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

(B) if such Options or Convertible Securities by their terms provide, with the passage of time or otherwise, for any decrease in the consideration payable to the Corporation, or increase in the number of shares of Common Stock issuable, upon the exercise, conversion or exchange thereof, the applicable Conversion

Price computed upon the original issue thereof (or upon the occurrence of a record date with respect thereto), and any subsequent adjustments based thereon, shall, upon any such decrease or increase becoming effective, be recomputed to reflect such increase or decrease insofar as it affects such Options or the rights of conversion or exchange under such Convertible Securities which are outstanding at such time;

(C) upon the expiration of any such Options or any rights of conversion or exchange under such Convertible Securities which shall not have been fully exercised, the applicable Conversion Price computed upon the original issue, sale, grant or assumption thereof (or upon the occurrence of a record date with respect thereto), and any subsequent adjustments based thereon, shall, upon such expiration, be recomputed as if:

(I) in the case of such Convertible Securities or Options for Common Stock, the only Additional Shares of Common Stock issued or sold were the shares of Common Stock, if any, actually issued or sold upon the exercise of such Options or the conversion or exchange of such Convertible Securities and the consideration received for such Additional Shares of Common Stock was, in the case of Options, the consideration actually received by the Corporation for the issue, sale, grant or assumption of all such Options, whether or not exercised, plus the consideration actually received by the Corporation upon such exercise, or, in the case of Convertible Securities, the consideration actually received by the Corporation for the issue, sale or assumption of all such Convertible Securities which were actually converted or exchanged, plus the additional consideration, if any, actually received by the Corporation upon such conversion or exchange, and

(II) in the case of Options for Convertible Securities, only the Convertible Securities, if any, actually issued or sold upon the exercise thereof were issued at the time of issue, sale, grant or assumption of such Options, and the consideration received by the Corporation for the Additional Shares of Common Stock deemed to have been then issued was the consideration actually received by the Corporation for the issue, sale, grant or assumption of all such Options, whether or not exercised, plus the consideration deemed to have been received by the Corporation (determined pursuant to Section B.3(d)(iv)) upon the issue or sale of the Convertible Securities with respect to which such Options were actually exercised;

(D) no readjustment pursuant to clause (B) or (C) above shall have the effect of increasing the applicable Conversion Price to an amount which exceeds the lower of (i) the Conversion Price immediately prior to the original issuance of such Options or Convertible Securities or (ii) the applicable Conversion Price that would have resulted from any issuance of Additional Shares of Common Stock between the date of the original issuance of such Options or Convertible Securities and the readjustment date therefor, as provided for in clause (B) or (C), as applicable;

(E) In the case of any Options which expire by their terms not more than 30 days after the date of issue, sale, grant or assumption thereof, no adjustment

of the Conversion Price shall be made until the expiration or exercise of all such Options, whereupon such adjustment shall be made in the same manner provided in clause (C) above.

(iii) Adjustment of Conversion Price Upon Issuance of Additional Shares of Common Stock. In the event the Corporation shall issue or be deemed to issue Additional Shares of Common Stock for a consideration per share less than the Series A Conversion Price or Series B Conversion Price, as may be applicable, in effect on the date of and immediately prior to such issue, then and in such event, the applicable Conversion Price shall be reduced, concurrently with such issue or sale (or deemed issue or sale) in order to increase the number of shares of Class A Common Stock into which such applicable series of Preferred Stock is convertible, to a price (calculated to the nearest cent) determined by multiplying the applicable Conversion Price by a fraction (x) the numerator of which shall be (1) the number of shares of Common Stock Deemed Outstanding immediately prior to such issue or sale (or deemed issue or sale), plus (2) the number of shares of Class A Common Stock which the aggregate consideration received by the Corporation for the total number of Additional Shares of Common Stock so issued (or deemed issued) would purchase at the applicable Conversion Price, and (y) the denominator of which shall be (1) the number of shares of Common Stock Deemed Outstanding immediately prior to such issue (or deemed issue) plus (2) the number of such Additional Shares of Common Stock so issued (or deemed issued), provided that no Conversion Price shall be so reduced at such time if the amount of such reduction would be an amount less than \$.01, but any such amount shall be carried forward and reduction with respect thereto made at the time of and together with any subsequent reduction which, together with such amount and any other amounts so carried forward shall aggregate \$.01 or more.

(iv) Determination of Consideration. For purposes of this Section B.3(d), the consideration received (or deemed to be received) by the Corporation for the issue or sale of any Additional Shares of Common Stock (or any Additional Shares of Common Stock deemed to be issued pursuant to Section B.3(d)(ii)(1)) shall be computed as follows:

(1) Cash and Property. The consideration per share received by the Corporation for the issue or sale of Additional Shares of Common Stock shall:

(A) insofar as it consists of cash, be computed at the aggregate amount of cash received by the Corporation excluding amounts paid or payable for accrued interest or accrued dividends and before deduction of any underwriting or similar commissions, compensation or concessions paid or allowed by the Corporation in connection with such issue or sale without deduction of any expenses payable by the Corporation;

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

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

(2) Options and Convertible Securities. The consideration per share deemed to be received by the Corporation for Additional Shares of Common Stock deemed to have been issued pursuant to Section B.3(d)(ii)(1), relating to Options and Convertible Securities, shall be determined by dividing:

(x) the total amount, if any, actually received by the Corporation as consideration for the issue, sale, grant or assumption of such Options or Convertible Securities, plus the minimum aggregate amount of additional consideration (as set forth in the instruments relating to such Options or Convertible Securities without regard to any provision contained therein for a subsequent adjustment of such consideration) payable to the Corporation upon the exercise in full of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities, by

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

(v) Adjustment for Stock Dividends, Distributions, Subdivisions, Combinations or Consolidation of Common Stock.

(1) Stock Dividends, Distributions and Subdivisions. In the event the Corporation shall declare or pay any dividend or make any other distribution on the Common Stock payable in shares of Common Stock, or shall effect a subdivision of the outstanding Class A Common Stock, into a greater number of shares of Class A Common Stock (by reclassification or otherwise than by payment of a dividend in shares of Common Stock), the applicable Conversion Price in effect immediately prior to such stock dividend, distribution or subdivision shall, concurrently with the effectiveness of such stock dividend, distribution or subdivision, be proportionately decreased.

(2) Combinations or Consolidation of Common Stock. In the event the outstanding Class A Common Stock shall be combined or consolidated, by reclassification or otherwise, into a lesser number of shares of Class A Common Stock, the applicable Conversion Price in effect immediately prior to such combination or consolidation shall, concurrently with the effectiveness of such combination or consolidation, be proportionately increased.

(vi) Adjustments for Consolidation, Merger, Sale of Assets, Reorganization, Etc. In the event the Corporation, after the Series B Original Issue Date, (1) shall consolidate with or merge into any other corporation or entity and shall not be the continuing or surviving corporation or entity of such consolidation or merger, or (2) shall permit any other corporation or entity to consolidate with or merge into the Corporation and the Corporation shall be the continuing or surviving corporation but, in connection with such consolidation or merger, the shares of Common Stock shall be changed into or exchanged for stock or other securities of any other person or cash or any other property, or (3) shall transfer all or substantially all of its properties or assets to any other corporation or entity, then, and in each such event, proper provision shall be made so that, upon the basis and the terms and in the manner provided in this Section B.3(d)(vi), each holder of Preferred Stock, upon the conversion thereof at any time after the consummation of such consolidation, merger, transfer, reorganization or reclassification, shall be entitled to receive, in lieu of the shares of Common Stock issuable upon such conversion prior to such consummation, the stock and other securities, cash and property to which such holder would have been entitled upon such consummation if such holder had converted such Preferred Stock immediately prior thereto, subject to adjustments (subsequent to such corporate action) as nearly equivalent as possible to the adjustments provided for in this Section B.3. Notwithstanding anything contained herein to the contrary, the Corporation will not effect any of the transactions described in clauses (1) through (3) above unless, prior to the consummation thereof, each entity (other than the Corporation) which may be required to deliver any stock, securities, cash or property upon the conversion of Preferred Stock shall assume, by written instrument delivered to each holder of Preferred Stock, the obligation to deliver to such holder such shares of stock, securities, cash or property as such holder may be entitled to receive upon such conversion, and such entity shall have furnished to each holder of Preferred Stock an opinion of counsel for such entity, which counsel shall be reasonably satisfactory to such holder, stating that the holder of such Preferred Stock shall thereafter be entitled to receive, upon the conversion of such shares, the stock, securities, cash or property which such corporation may be required to deliver pursuant to the terms hereof.

(vii) Adjustments for Other Distributions. In the event the Corporation at any time or from time to time makes, or fixes a record date for the determination of holders of Common Stock entitled to receive, any distribution payable in securities of the Corporation other than shares of Common Stock and other than as otherwise adjusted in this Section B.3, 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 securities of the Corporation which they would have received had their shares of 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 B.3 with respect to the rights of the holders of the Preferred Stock. The Corporation shall not distribute securities of the Corporation to holders of any series or class of Common Stock without effecting a

proportional and equivalent distribution to the holders of all other series or classes of Common Stock (subject to the provisions of Article IV, Section A).

(viii) Adjustments for Reclassification, Exchange and Substitution. If the Class A Common Stock issuable upon the 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 capital reorganization, reclassification or otherwise (other than a subdivision, combination or consolidation of shares provided for above), the applicable Conversion Price of each series of Preferred Stock then in effect shall, concurrently with the effectiveness of such reorganization or reclassification, be proportionately adjusted such that each series of Preferred Stock shall be convertible into, in lieu of the number of shares of Class A Common Stock which the holders would otherwise have been entitled to receive, a number of shares of such other class or classes of stock equivalent to the number of shares of Class A Common Stock that would have been subject to receipt by the holders upon conversion of such shares of Preferred Stock immediately before that change. No series or class of Common Stock shall be so changed into shares of any other class or classes of stock unless a proportional and equivalent change shall be made with respect to all other series or classes of Common Stock; provided, however, that the Class B Common Stock may be redeemed and converted into Class A Common Stock as provided in Article IV, Section A.5.

(e) Other Dilutive Events. If any event occurs as to which the other provisions of this Section B.3 are not strictly applicable but the failure to make any adjustment would not fairly protect the anti-dilution rights set forth in this Section B.3 in accordance with the essential intent and principles hereof, then, in each case, the Corporation's Board of Directors will make appropriate adjustment in the Conversion Price or otherwise so as to protect the rights of the holders of Preferred Stock.

(f) No Impairment. The Corporation will not, by amendment of its Certificate of Incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Corporation but will at all times in good faith assist in the carrying out of all the provisions of this Section B.3 and in the taking of all such action as may be necessary or appropriate in order to protect the conversion rights of the holders of the Preferred Stock against impairment. Without limiting the generality of the foregoing, the Corporation (i) will not permit the par value of any shares of stock at the time receivable upon the conversion of the Preferred Stock to exceed the applicable Conversion Price then in effect, (ii) will take all such action as may be necessary or appropriate in order that the Corporation may validly and legally issue fully paid nonassessable shares of stock on the conversion of the Preferred Stock, and (iii) will not take any action which results in any adjustment of the applicable Conversion Price if after such action the total number of shares of Common Stock issuable upon the conversion of all of the Preferred Stock will exceed the total number of shares of Common Stock then authorized by the Corporation's Certificate of Incorporation and available for the purpose of issue upon such conversion.

(g) Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the applicable Conversion Price pursuant to this Section B.3, the Corporation at its expense shall promptly compute such adjustment or readjustment in accordance with the terms hereof and furnish to each holder of Preferred Stock for which the Conversion Price was adjusted, a certificate setting forth such adjustment or readjustment and showing in reasonable detail the facts upon which such adjustment or readjustment is based, including a statement of (i) the consideration received or to be received by the Corporation for any Additional Shares of Common Stock issued or sold or deemed to have been issued, (ii) the number of shares of Common Stock outstanding or deemed to be outstanding, and (iii) the applicable Conversion Price in effect immediately prior to such issue or sale and as adjusted and readjusted on account thereof. The Corporation shall, upon the written request at any time of any holder of Preferred Stock furnish or cause to be furnished to such holder a like certificate setting forth (i) the applicable Conversion Price at the time in effect, and showing how it was calculated, and (ii) 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 Preferred Stock.

(h) Notices of Record Date. In the event of any taking by the Corporation of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend or other distribution, or any right to subscribe for, purchase or otherwise acquire any shares of stock of any class or any other securities or property, or to receive any other right, the Corporation shall mail to each holder of Preferred Stock at least 10 days prior to the date specified therein, a notice specifying the date on which any such record is to be taken for the purpose of such dividend or distribution.

(i) Common Stock Reserved. The Corporation shall at all times reserve and keep available out of its authorized but unissued Common Stock such number of shares of Common Stock as shall from time to time be sufficient to effect conversion of the Preferred Stock.

(j) Waiver of Adjustment of Conversion Price. Notwithstanding anything herein to the contrary, the operation of, and any adjustment to the Series A Conversion Price pursuant to this Section B.3 may be waived in writing only by the holders of a majority of the outstanding shares of Series A Preferred, which waiver shall be binding on all current and future holders of Series A Preferred and in respect of all shares of Series A Preferred. Notwithstanding anything herein to the contrary, the operation of, and any adjustment to the Series B Conversion Price pursuant to this Section B.3 may be waived in writing only by the holders of a majority of the outstanding shares of Series B Preferred, which waiver shall be binding on all current and future holders of Series B Preferred and in respect of all shares of Series B Preferred.

4. Redemption. The Corporation shall give written notice (the “**Redemption Notice**”) to each holder of Preferred Stock at least 90 days and no more than 120 days prior to the scheduled redemption dates provided below, stating that it will redeem all of the Preferred Stock as provided herein so long as the holders of 51% or more of the

outstanding shares of the Preferred Stock (calculated on an as-converted basis) approve such redemption by delivery to the Corporation of written approval within 60 days of receipt of the Redemption Notice (the “**Approval Notice**”), such notice to be addressed to each holder at the address as it appears on the stock transfer books of the Corporation and to specify the date of redemption and the number of shares to be redeemed.

Subject to delivery of the applicable Approval Notice, the Corporation shall redeem for cash out of any funds legally available therefore: (i) on the date that is the fifth anniversary of the Series B Original Issue Date (as such term is defined in Section B.3(d)), 33.4% of the Preferred Stock held by each holder of Preferred Stock on that date; (ii) on the date that is the sixth anniversary of the Series B Original Issue Date, 50% of the Preferred Stock held by each holder of Preferred Stock on that date; and (iii) on the date that is the seventh anniversary of the Series B Original Issue Date, all of the Preferred Stock held by each holder of Preferred Stock on that date (each such date, a “**Redemption Date**”). On each Redemption Date, each holder’s redemption shall be made proportionately among all series of Preferred Stock held by a given holder on an as-converted basis. Redemptions pursuant to this Section B.4 shall be made for a per-share price equal to the greater of (i) the applicable Liquidation Price for the applicable series of Preferred Stock as set forth in Section B.2 hereof and (ii) the fair market value of a share of the applicable series of Preferred Stock on the date thirty days prior to such Redemption Date as determined in good faith by the Board of Directors (such valuation and an explanation of the methodology used in calculating such valuation to be delivered to each holder of Preferred Stock at least 10 days prior to the applicable Redemption Date) (in respect of the Series A Preferred, the “**Series A Redemption Price**,” and in respect of the Series B Preferred, the “**Series B Redemption Price**,” and collectively, the “**Redemption Price**”); provided that if there shall be a good faith objection to such fair market value determination by the holders of at least 51% of the then outstanding (x) Common Stock or (y) Preferred Stock (in each case, on an as-converted basis) within 10 days of the receipt thereof by the holders of the Preferred Stock, such fair market value shall be conclusively determined by an independent appraiser selected by the Corporation and holders of not less than 51% of the outstanding Preferred Stock (on an as-converted basis) or, if such persons cannot agree upon an appraiser, each of the Corporation and such holders will select an independent appraiser, and such two appraisers will in turn mutually agree on a third appraiser, and such third appraiser’s determination of such fair market value shall be final and binding on the parties. The fees and expenses of any appraiser shall be paid (i) by the Corporation if such fair market value as determined by such independent appraiser varies by more than 10% from the determination of fair market value proposed by the Corporation prior to the selection of such independent appraiser, (ii) in the event that the holders of Preferred Stock objected to the fair market valuation and obligated the Corporation to hire an independent appraiser, by the holders of the Preferred Stock pro rata in proportion to the number of shares of the Preferred Stock owned by such holder on an as-converted basis if such fair market value as determined by such independent appraiser is within or equal to 10% of the determination of the fair market value proposed by the Corporation prior to the selection of such independent appraiser and (iii) in the event that the holders of Common Stock objected to

the fair market valuation and obligated the Corporation to hire an independent appraiser, by the holders of the Common Stock pro rata in proportion to the number of shares of the Common Stock owned by such holder on an as-converted basis if such fair market value as determined by such independent appraiser is within or equal to 10% of the determination of the fair market value proposed by the Corporation prior to the selection of such independent appraiser. The Corporation shall pay interest at the rate of 8% on such redemption price from the applicable Redemption Date through the date the Redemption Price is paid. In connection with the determination of fair market value of the Corporation as a whole for purposes of the foregoing redemption provisions, the value of each share of Preferred Stock shall be equal to the quotient of (x) the highest price for which the Corporation could be sold to an independent third party, assuming a reasonable time to accomplish such sale, divided by (y) the number of outstanding shares of the Corporation as calculated on a fully diluted basis. The Corporation need not establish any sinking fund for the redemption of Preferred Stock.

On or after the date of redemption unless postponed or waived as provided below, each holder of Preferred Stock shall surrender a certificate or certificates representing the number of shares of the Preferred Stock to be redeemed as stated in the notice provided by the Corporation. If less than all the shares represented by such certificates are to be redeemed, the Corporation shall forthwith issue a new certificate, of like tenor, for the unredeemed shares.

Notwithstanding the foregoing, the holders of 51% or more of the Preferred Stock, calculated on an as-converted basis, shall have the right to postpone the Redemption Dates or waive (on a pro rata basis) the obligation of the Corporation to redeem all or part of the Preferred Stock, by written notice given to the Corporation. The Corporation shall not redeem the Preferred Stock of any holder of Preferred Stock until the scheduled Redemption Date, if any. In the event the holders of Preferred Stock shall postpone or waive the obligation of the Corporation to redeem their Preferred Stock in the manner provided above, the Corporation shall be deemed to postpone or waive its right to redeem the Preferred Stock.

For the purpose of determining whether funds are legally available for redemption of Preferred Stock as provided herein, the Corporation shall value its assets at the highest amount permissible under applicable law. If on any Redemption Date (as the same may be postponed, as provided above) funds of the Corporation legally available therefor shall be insufficient to redeem all the Preferred Stock required to be redeemed as provided herein, funds to the extent legally available shall be used for such purpose and the Corporation shall effect such redemption pro rata according to the number of shares held by each holder of Preferred Stock on an as-converted basis. The redemption requirements provided hereby shall be continuous, so that if on any Redemption Date such requirements shall not be fully discharged, without further action by any holder of Preferred Stock funds legally available shall be applied therefor until such requirements are fully discharged (unless the holders elect to postpone or waive the applicable redemption, as provided above).

Notwithstanding anything contained herein to the contrary, if the determination of fair market value is being disputed in accordance with the terms of this Section B.4, the obligation to redeem shall be suspended until the date following the final resolution of the determination of such fair market value.

5. Voting Rights.

(a) General Voting Rights. The holders of Preferred Stock shall be entitled, on all matters submitted for a vote of the holders of shares of Common Stock, whether pursuant to law or otherwise, to one vote for each whole share of Class A Common Stock issuable as of the date of such vote upon the conversion of each share of Preferred Stock held, and on all such matters shall vote together as one class with the holders of Common Stock and the holders of all other shares of stock entitled to vote with the holders of Common Stock on such matters. In addition, the holders of Preferred Stock shall have the full voting rights and powers provided for by law equal to the voting rights and powers of the Common Stock, shall be entitled to notice of any stockholders' meeting in accordance with the Bylaws and shall have the further voting powers provided for below.

(b) Preferred Stock Protective Provisions. Without the consent of the holders at least a majority of the then-outstanding Preferred Stock, voting together as a single class (each share of Preferred Stock having a vote equal to the number of whole shares of Class A Common Stock issuable as of the date of such vote upon conversion of such share of Preferred Stock), in person or by proxy, either in writing without a meeting or at a special or annual meeting of stockholders called for the purpose, the Corporation shall not:

(i) amend or repeal any provision of, or add any provision to, the Corporation's Bylaws or Certificate of Incorporation;

(ii) reclassify any outstanding shares of capital stock into shares having any preference, priority or right as to the payment of dividends, the distribution of assets or voting superior to or on a parity with any such preference, priority or right of any of the Preferred Stock;

(iii) pay or declare any dividend or distribution on any shares of Common Stock or any other security junior to any of the Preferred Stock (except dividends or distributions payable solely in shares of Class A Common Stock on shares of Class A Common Stock, and for which adjustment to the Conversion Price shall have been made pursuant to Section B.3(d) hereof) or apply any of the Corporation's assets to the redemption, retirement, purchase or other acquisition directly or indirectly, through subsidiaries or otherwise, of any shares of Common Stock except from employees of the Corporation upon termination of their employment or services;

(iv) create or issue any class or classes of stock or series of Preferred Stock, or authorize any security convertible into, or exchangeable for, capital stock of the Corporation, having any preference, priority or right as to the payment of dividends, the

distribution of assets or voting superior to or on a parity with any such preference, priority or right of the Preferred Stock;

(v) increase the number of authorized shares of Preferred Stock;

(vi) consummate any merger, liquidation, consolidation or other corporate reorganization of the Corporation or any transaction or series of transactions resulting in a Change of Control;

(vii) increase the maximum authorized number of directors of the Corporation to more than eight; or

(viii) voluntarily liquidate or dissolve.

(c) Series A Preferred Protective Provisions. Without the consent of the holders at least a majority of the then-outstanding shares of Series A Preferred, voting separately as a single class (each share of Series A Preferred having a vote equal to the number of whole shares of Class A Common Stock issuable as of the date of such vote upon conversion of such share of Series A Preferred), in person or by proxy, either in writing without a meeting or at a special or annual meeting of stockholders called for the purpose, the Corporation shall not:

(i) amend the Corporation's Certificate of Incorporation to alter or change the powers, preferences or special rights of the Series A Preferred so as to affect them adversely without similarly so affecting all other series of Preferred Stock adversely; or

(ii) prior to the first anniversary of the Series B Original Issue Date, effect a Change of Control that results in aggregate proceeds payable to the Corporation or its securityholders of less than \$226,000,000.

(d) Series B Preferred Protective Provisions. Without the consent of the holders at least a majority of the then-outstanding shares of Series B Preferred, voting separately as a single class (each share of Series B Preferred having a vote equal to the number of whole shares of Class A Common Stock issuable as of the date of such vote upon conversion of such share of Series B Preferred), in person or by proxy, either in writing without a meeting or at a special or annual meeting of stockholders called for the purpose, the Corporation shall not:

(i) amend the Corporation's Certificate of Incorporation to alter or change the powers, preferences or special rights of the Series B Preferred so as to affect them adversely without similarly so affecting all other series of Preferred Stock adversely;

(ii) amend or waive (whether by merger, consolidation or otherwise) (1) the Series B Liquidation Price set forth in Article IV, Section B.2(b) hereof; (2) the Series B Conversion Price as provided in Article IV, Section B.3(a) hereof; (3) the right to an adjustment of the Series B Conversion Price as provided in Article IV, Section B.3 hereof; and (4) the requirements which trigger the automatic conversion of the Series B

Preferred in connection with a Qualified Offering as set forth in Article IV, Section B.3(b) hereof; or

(iii) prior to the first anniversary of the Series B Original Issue Date, effect a Change of Control that results in aggregate proceeds payable to the Corporation or its securityholders of less than \$226,000,000.

ARTICLE V

The following provisions are inserted for the management of the business and for the conduct of the affairs of the Corporation and for the purpose of creating, defining, limiting and regulating the powers of the Corporation and its directors and stockholders:

(a) Subject to Section B.5(b)(vii) of Article IV hereof, the number of directors of the Corporation shall be fixed and may be altered from time to time in the manner provided in the Bylaws of the Corporation and that certain Second Amended and Restated Stockholders Agreement, by and among the Corporation and certain of its stockholders, dated on or about the Series B Original Issuance Date;

(b) The election of directors may be conducted in any manner approved by the stockholders at the time when the election is held and need not be by written ballot;

(c) All corporate powers and authority of the Corporation (except as at the time otherwise provided by law, by this Certificate of Incorporation or by the Bylaws) shall be vested in and exercised by the Board of Directors;

(d) The Board of Directors shall have the power without the assent or vote of the stockholders to adopt, amend, alter or repeal the Bylaws of the Corporation, except to the extent that the Bylaws of the Corporation or this Certificate of Incorporation otherwise provide; and

(e) No director of the Corporation shall be liable to the Corporation or its stockholders for monetary damages for breach of his or her fiduciary duty as a director, provided that nothing contained in this Article shall eliminate or limit the liability of a director (i) for any breach of the director's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of the law, (iii) under Section 174 of the General Corporation Law of the State of Delaware or (iv) for any transaction from which the director derived an improper personal benefit.

Any repeal or modification of the foregoing paragraph 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 such repeal or modification.

ARTICLE VI

1. Nature of Indemnity. To the fullest extent permitted by the DGCL as the same exists or as may hereafter be amended, the Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he or she is or was or has agreed to become a director or officer of the Corporation, or by reason of any action alleged to have been taken or omitted in such capacity, and may indemnify any person who was or is a party or is threatened to be made a party to such an action, suit or proceeding by reason of the fact that he or she is or was or has agreed to become an employee or agent of the Corporation, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her or on his or her behalf in connection with such action, suit or proceeding and any appeal therefrom, if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding had no reasonable cause to believe his or her conduct was unlawful; except that in the case of an action or suit by or in the right of the Corporation to procure a judgment in its favor (1) such indemnification shall be limited to expenses (including attorneys' fees) actually and reasonably incurred by such person in the defense or settlement of such action or suit, and (2) no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the Corporation unless and only to the extent that the Delaware Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Delaware Court of Chancery or such other court shall deem proper.

The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

2. Successful Defense. To the extent that a present or former director, officer, employee or agent of the Corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section B.1 of this Article VI or in defense of any claim, issue or matter therein, he or she shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection therewith.

3. Advance Payment of Expenses. Expenses (including attorneys' fees) incurred by a present director or officer in defending any civil, criminal, administrative or investigative action, suit or proceeding shall be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the director or officer to repay such amount if it shall ultimately be determined that he or she is not entitled to be indemnified by the Corporation as authorized in this Article VI. Such expenses (including attorneys' fees) incurred by former directors and officers or other employees and agents may be so paid upon such terms and conditions, if any, as the Corporation deems

appropriate. The Corporation, or in respect of a present director or officer the Board of Directors, may authorize the Corporation's counsel to represent such present or former director, officer, employee or agent in any action, suit or proceeding, whether or not the Corporation is a party to such action, suit or proceeding.

4. Survival; Preservation of Other Rights. The foregoing indemnification provisions shall be deemed to be a contract between the Corporation and each director, officer, employee and agent who serves in any such capacity at any time while these provisions as well as the relevant provisions of the Delaware Corporation Law are in effect and any repeal or modification thereof shall not affect any right or obligation then existing with respect to any state of facts then or previously existing or any action, suit or proceeding previously or thereafter brought or threatened based in whole or in part upon any such state of facts. Such a "contract right" may not be modified retroactively without the consent of such director, officer, employee or agent.

The indemnification provided by this Article VI shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

ARTICLE VII

In the event that a director of the Corporation who is also a partner or employee of an entity that is a holder of Preferred Stock and that is in the business of investing and reinvesting in other entities (each, a "**Fund**") acquires knowledge of a potential transaction or matter in such person's capacity as a partner or employee of the Fund and that may be a corporate opportunity for both the Corporation and such Fund (a "**Corporate Opportunity**"), then (i) such Corporate Opportunity shall belong to such Fund, (ii) such director shall, to the fullest extent permitted by law, have fully satisfied and fulfilled his fiduciary duty to the Corporation and its stockholders with respect to such Corporate Opportunity, and (iii) the Corporation, to the fullest extent permitted by law, waives any claim that such Corporate Opportunity constituted a corporate opportunity that should have been presented to the Corporation or any of its affiliates provided, however, that such director acts in good faith and such opportunity was not offered to such person in his or her capacity as a director of the Corporation.

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IN WITNESS WHEREOF, AWS Convergence Technologies, Inc. has caused this Amended and Restated Certificate of Incorporation to be signed by its President this 20th day of February, 2004.

AWS CONVERGENCE TECHNOLOGIES, INC.

By: /s/ Robert S. Marshall
Robert S. Marshall
President