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Office of the Secretary of State
of the State of California

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**SECOND AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
ALLEN TECHNOLOGIES, INC.**

The undersigned, Derek A. Forman and Barbara A. Greytak, do hereby certify as follows:

1. They are the Chairman of the Board and Secretary, respectively, of Allen Technologies, Inc., a California corporation (this or the "Corporation").
2. The Articles of Incorporation of this Corporation are amended and restated in their entirety to read as follows:

"I

The name of this Corporation is Allen Technologies, Inc.

II

The purpose of this Corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of California other than the banking business, the trust corporation business or the practice of a profession permitted to be incorporated by the California Corporations Code.

III

This Corporation is authorized to issue two classes of shares of stock, to be designated Common Stock and Preferred Stock, respectively. This Corporation is authorized to issue Fifteen Million (15,000,000) shares of Common Stock and Seven million Five Hundred Thousand (7,500,000) shares of Preferred Stock. The Preferred Stock authorized by these Articles of Incorporation shall be issued from time to time in one or more series. The initial two series of Preferred Stock shall be comprised of an aggregate of Five Million Seven Hundred Thirty-One Thousand Nine (5,731,009) shares, of which One Million Five Hundred Forty-Nine Thousand Seven Hundred Seventy-Five (1,549,775) shares shall be designated "Series A Convertible Preferred Stock" (also referred to as "Series A Stock" or "Series A Preferred Stock") and Four Million One Hundred Eighty-One Thousand Two Hundred Thirty-Four (4,181,234) shares shall be designated "Series B Convertible Preferred Stock" (also referred to as "Series B Stock" or "Series B Preferred Stock"). Except with respect to the Series A Stock and Series B Stock, the Board of Directors of this Corporation (the "Board of Directors") is authorized to determine the designation of any such series and to fix the number of shares of any such series. The Board of Directors may determine or alter the rights, preferences, privileges and restrictions granted to or imposed upon any wholly unissued series of Preferred Stock. Except with respect to the Series A Stock and Series B Stock, and within the limits and restrictions stated in any resolution or resolutions of the Board of Directors originally fixing the number of shares

constituting any series of Preferred Stock, the Board of Directors may increase or decrease (but not below the number of shares of such series then outstanding) the number of shares of any such series subsequent to the issue of shares of that series.

The rights, preferences, privileges and restrictions of the Common Stock, Series A Stock and Series B Stock and of the holders thereof shall be as follows:

(a) DIVIDENDS.

(1) **Series A Stock-Right to Dividends.** Each holder of outstanding shares of Series A Stock shall be entitled to receive, when and if declared by the Board of Directors but only out of any assets legally available therefor, non-cumulative dividends in cash in an amount equal to 5.0% of the per share Series A Issuance Price per annum (the "Series A Preferential Dividend"), payable in any given fiscal year of this Corporation, in preference to any declaration or payment (payable other than in Common Stock) to the Common Stock (but not without the holders of Series B Stock also receiving the Series B Preferential Dividend (as defined below), as adjusted pursuant to Article III (a)(3) below). The initial Series A Issuance Price is \$2.258 (Appropriately Adjusted (as defined in Subsection (a)(6) below)).

(2) **Series B Stock Right to Dividends.** Each holder of outstanding shares of Series B Stock shall be entitled to receive, when and if declared by the Board of Directors but only out of any assets at the time legally available therefor, non-cumulative dividends in cash in an amount equal to 5.0% of the per share Series B Issuance Price per annum (the "Series B Preferential Dividend"), payable in any given fiscal year of this Corporation, in preference to any declaration or payment (payable other than in Common Stock) to the Common Stock (but not without the holders of Series A Stock also receiving the Series A Preferential Dividend, as adjusted pursuant to Article III (a)(3) below). The Series B Issuance Price is \$0.4783276, as Appropriately Adjusted from time to time.

(3) **Partial Payment.** If the Board of Directors shall declare a dividend on the outstanding shares of Series A Stock and Series B Stock, and the amount available for payment thereof is insufficient to permit the payment of the full preferential amounts required to be paid to the holders of the outstanding shares of Series A Stock and Series B Stock, then the amount available for such dividend payments shall be distributed ratably among the holders of the outstanding shares of Series A Stock and the holders of the outstanding shares of Series B Stock according to (i) the respective dividend preference amounts to which all such holders of outstanding Series A Stock and Series B Stock would otherwise be entitled, and (ii) the number of outstanding shares of each such series until each holder of outstanding shares of Series A Stock has received its Series A Preferential Dividend and each holder of outstanding shares of Series B Stock has received its Series B Preferential Dividend, as applicable, in full. For example, assume that: (1) there are 1,549,775 shares of Series A Stock issued and outstanding, and the Series A Preferential Dividend is \$0.1129 per share; and (2) there are 4,181,234 shares of Series B Stock issued and outstanding, and the Series B Preferential Dividend is \$.0239 per share; and (3) there is not enough money available for payment in full of the preferential

dividends to the holders of the outstanding shares of Series A Stock and Series B Stock. In such event, the Series A Stock shareholders would collectively be entitled to 63.65% of the dividend to be paid; and the Series B Stock shareholders would collectively be entitled to 36.35% of the dividend to be paid.

(4) **Dividends After Payment of Preferential Dividends.** After the holders of record of the Series A Stock and Series B Stock have been paid their Preferential Dividends in full, then the holders of record of Series A Stock, Series B Stock and Common Stock shall share ratably in any additional dividends during such fiscal year on an as converted basis (i.e, the number of shares of Common Stock which would be outstanding if the Series A Stock and Series B Stock were converted to Common Stock). So long as any Series A Stock or Series B Stock remains outstanding, no dividend shall be paid to the holders of record of Common Stock (other than a dividend in shares of Common Stock) without the consent of the holders of record of a majority of the shares of Series A Preferred Stock and Series B Preferred Stock then outstanding and voting as separate classes. Furthermore, no cash dividend may be paid on the Common Stock so long as cash dividends previously or concurrently declared on the Series A Preferred Stock or Series B Preferred Stock remain unpaid.

(5) **Payment Other Than Cash.** If the Corporation shall declare a distribution payable in securities of other persons, evidences of indebtedness issued by the Corporation or other persons, assets (excluding cash dividends) or options or rights to purchase any such securities or evidences of indebtedness, then, in each such case, the holders of Series A Preferred Stock and Series B Preferred Stock shall be entitled to a proportionate share of any such distribution as though the holders of Series A Preferred Stock and Series B Preferred Stock were the holders of the number of shares of Common Stock of the Corporation into which their respective shares of Series A Preferred Stock and Series B Preferred Stock are convertible as of the record date fixed for the determination of the holders of Common Stock of the Corporation who are entitled to receive such distribution.

(6) **Dividend Adjustment.** The Series A Preferential Dividend and Series B Preferential Dividend amounts shall be appropriately adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to the Series A Preferred Stock and Series B Preferred Stock, respectively ("Appropriately Adjusted").

(b) **PREFERENCE ON LIQUIDATION.**

(1) **Preference Price.** In the event of any liquidation, dissolution or winding up of this Corporation, whether voluntary or involuntary (a "Liquidation"), the holders of the outstanding shares of Series A Stock and Series B Stock shall simultaneously be entitled to be paid out of the assets of this Corporation available for distribution to its shareholders, whether from capital, surplus funds or earnings, before any payment is made in respect of the shares of Common Stock or other equity security of this Corporation of a lesser priority than the Series A Stock and Series B Stock in an amount equal to (i) the Series A Issuance Price per share in the case of the Series A Stock together with an amount equal to the greater of (A) five percent

(5.0%) of the Series A Issuance Price compounded annually at the rate of 5.0%, for each year (or fraction thereof) after December 30, 2004 (the "Series A Stock Issuance Date"), less the amount, if any, of any dividends actually paid to the Series A Stock through the date of Liquidation, or (B) any declared and unpaid dividends thereon (the "Series A Liquidation Preference Price"); and (ii) the Series B Issuance Price per share in the case of the Series B Stock together with an amount equal to the greater of (A) five percent (5.0%) of the Series B Issuance Price compounded annually at the rate of 5.0% for each year (or fraction thereof) after the date on which this Second Amended and Restated Articles of Incorporation is filed with the California Secretary of State (the "Series B Stock Issuance Date"), less the amount, if any, of any dividends actually paid to the Series B Stock through the date of Liquidation, or (B) any declared and unpaid dividends thereon (the "Series B Liquidation Preference Price"). After payment of the respective Liquidation Preference Prices to the holders of Series A Stock and Series B Stock, the remaining assets of the Corporation shall be distributed to the holders of shares of Common Stock, Series A Preferred Stock and Series B Preferred Stock in an equal amount per share as if all Series A Preferred Stock and Series B Preferred Stock had been converted into Common Stock as of the date of the Liquidation.

(2) **Partial Payment.** If, upon Liquidation, the assets of this Corporation available for distribution to its shareholders shall be insufficient to pay the full Liquidation Preference Prices required to be paid to the holders of the outstanding shares of Series A Stock and Series B Stock, then all of the assets of this Corporation legally available for distribution to the holders of equity securities shall be distributed ratably first among the holders of the outstanding shares of Series B Stock until payment in full of the Series B Liquidation Preference Price. Thereafter, upon payment in full of the Series B Liquidation Preference Price, all of the remaining assets of this Corporation legally available for distribution to the holders of equity securities shall be distributed ratably among the holders of the outstanding shares of Series A Stock until payment in full of the Series A Liquidation Preference Price.

(3) **Certain Transactions.** At any time, in the event of the merger or consolidation of the Corporation into or with another corporation or the merger or consolidation of any other corporation into or with the Corporation or a plan of exchange between the Corporation and any other corporation (in which consolidation or merger or plan of exchange any shareholders of the Corporation receive distributions of cash or securities or other property) (other than any merger, consolidation or plan of exchange in which the shareholders of the Corporation immediately prior to such merger, consolidation or plan of exchange beneficially own a majority of the voting shares of the surviving corporation immediately following such transaction), or the sale, transfer or other disposition of all or substantially all of the assets of the Corporation (other than pursuant to a reincorporation of the Corporation in another jurisdiction), or the sale by the Corporation or any third-party in a transaction or series of related transactions disposing of more than 50% of the voting power of the Corporation then, subject to the provisions of this paragraph, such transaction shall be deemed, solely for purposes of determining the amounts to be received by the holders of the Series A Stock and Series B Stock in such merger, consolidation, plan of exchange, sale, transfer or other disposition, and for purposes of determining the priority of receipt of such amounts as between the holders of the Series A Stock, the holders of the Series B

Stock and the holders of the Common Stock, to be a Liquidation if the holders of a majority of the outstanding shares of Series B Stock and Series A Stock, each voting as a separate class, so elect by giving written notice thereof to the Corporation at least 10 days before the effective date of such transaction. If no such notice is given by both the holders of Series A Stock and the holders of Series B Stock, the provisions of Subsection (d)(7) below shall apply where applicable. The Corporation shall give each holder of Series A Stock and Series B Stock written notice of such impending transaction not later than 30 days prior to the shareholders' meeting of the Corporation called to approve such transaction, or 30 days prior to the closing of such transaction, whichever event is earlier, and shall also notify such holders in writing of the final approval of such transaction. The first of such notices shall describe the material terms and conditions of the transaction and of this Subsection (b)(3) including, without limiting the generality of the foregoing, a description of the value of the consideration, if any, being offered to the holders of the Series A Stock and Series B Stock in the transaction and the amount to which such holders would be entitled if such transaction were (as described above) to be deemed to be a Liquidation), and the Corporation shall thereafter give such holders prompt written notice of any material changes to such terms and conditions. The transaction shall in no event take place sooner than 30 days after the mailing by the Corporation of the first notice provided for herein or sooner than 30 days after the mailing by the Corporation of any notice of material changes provided for herein; provided, however, that any time periods under this Subsection (b)(3) may be reduced upon the written consent of both the holders of a majority of the Series B Stock shares and the holders of a majority of the Series A Stock shares then outstanding, each voting as a separate class.

Nothing herein above set forth shall effect in any way the right of each holder of shares of Series A Stock or Series B Stock to convert such shares at any time and from time to time in accordance with Section (d) below.

(4) Appraisal. Any securities and other assets to be delivered to the holders of the Series A Stock, Series B Stock and/or Common Stock pursuant to this Section (b) shall be valued as follows:

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

(A) If traded on a securities exchange or the Nasdaq National Market, 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 actively traded over-the-counter, the value shall be deemed to be the average of the closing bid prices over the 30-day period ending three (3) days prior to the closing; and

(C) If there is no active public market, the value shall be the fair market value thereof, as determined in good faith by the Board of Directors.

(ii) The method of valuation of securities subject to investment letter or other restrictions on free marketability shall be to make an appropriate discount from the market value determined as above in Clause (i)(A)(B) or (C) to reflect the approximate fair market value thereof, as determined in good faith by the Board.

(iii) If any of the assets of the Corporation other than securities or cash are to be distributed under this Section (b), then the value shall be the fair market value thereof, as determined in good faith by the Board of Directors.

(5) **Liquidation Adjustment.** The Liquidation Preference amounts set forth in this Section (b) shall be Appropriately Adjusted.

(c) **VOTING.**

(1) **Generally.** Except as otherwise required by law or expressly provided herein, each share of Series A Preferred Stock and each share of Series B Preferred Stock shall be entitled to vote on all matters submitted or required to be submitted to a vote of the shareholders of the Corporation and shall be entitled to the number of votes equal to the number of full shares of Common Stock into which such shares of Series A Preferred Stock and Series B Preferred Stock are convertible pursuant to the provisions hereof, at the record date for the determination of shareholders entitled to vote on such matters or, if no such record date is established, at the date such vote is taken or any written consent of shareholders is solicited. In each such case, except as otherwise required by law or expressly provided herein, the holders of shares of Series A Preferred Stock, Series B Preferred Stock and Common Stock shall vote together and not as separate classes. The holders of shares of Series A Preferred Stock, Series B Preferred Stock and Common Stock shall be entitled to notice of any shareholders' meeting in accordance with the bylaws of the Corporation. Each holder of Common Stock shall have the right to one vote per share of Common Stock and shall be entitled to vote upon such matters and in such manner as may be provided by law.

(2) **Special Voting Rights for the Election of Directors.** Each time the shareholders of the Corporation meet, or act by written consent in lieu of a meeting, for the purpose of electing Directors, the holders of the Corporation's Series A Preferred Stock shall be entitled, voting as a separate class, to elect two, and only two, members of the Corporation's Board of Directors, the holders of the Corporation's Series B Preferred Stock shall be entitled, voting as a separate class, to elect one, and only one, member of the Corporation's Board of Directors and the holders of the Common Stock shall be entitled, voting as a separate class, to elect two, and only two, members of the Corporation's Board of Directors. Thereafter, the holders of the outstanding shares of all classes and series shall vote together on an as converted basis as one class to elect the remaining members of the Board of Directors.

(3) **Removals or Resignations.** Any vacancy created on the Corporation's Board of Directors shall be filled by a successor Director who shall be elected in a manner by which his or her predecessor was elected as provided above. Any Director who has been elected

to the Corporation's Board of Directors as provided above may be removed during his term of office in accordance with the California Corporations Code, and any vacancy thereby created shall be filled as provided in this Subsection (c)(3).

(4) **Number of Directors.** The authorized number of directors of this Corporation shall be five (5). The above authorized number of Directors shall not otherwise be increased without the consent of the holders of a majority of each series of the outstanding Preferred Stock (Series A Preferred and Series B Preferred), each voting as a separate series/class. The above authorized number of Directors shall not otherwise be decreased without the consent of the holders of a majority of each class and series of the outstanding Stock (Series A Preferred Stock, Series B Preferred Stock and Common), each voting as a separate series/class.

(d) **CONVERSION.** The holders of the outstanding shares of Series A Stock and Series B Stock shall have the following conversion rights (the "Conversion Rights"):

(1) **Right to Convert.** Each share of Series A Stock and Series B Stock shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such shares, at the office of this Corporation or any transfer agent for the Corporation's shares into that number of shares of Common Stock which is equal to the quotient obtained by dividing (A) the Series A Issuance Price for each share of Series A Stock and the Series B Issuance Price for each share of Series B Stock by (B) the "Series A Conversion Price" and "Series B Conversion Price," respectively, (as such terms are hereinafter defined) in effect immediately prior to the time of such conversion. The conversion price at which shares of Common Stock will be deliverable upon the conversion of a share of Series A Stock without the payment of additional consideration by the holder thereof (the "Series A Conversion Price") shall initially be the Series A Issuance Price; provided, however, that the Series A Conversion Price shall be subject to adjustment from time to time as herein provided. The conversion price at which shares of Common Stock will be deliverable upon the conversion of a share of Series B Stock without the payment of additional consideration by the holder thereof (the "Series B Conversion Price") shall initially be the Series B Issuance Price; provided, however, that the Series B Conversion Price shall be subject to adjustment from time to time as herein provided.

(2) **Mechanics of Conversion.** Each holder of outstanding shares of Series A Stock and Series B Stock who desires to convert the same into shares of Common Stock shall surrender the certificate or certificates therefor, duly endorsed, at the office of this Corporation or of any transfer agent for the Corporation's shares and shall give written notice to this Corporation at such office that such holder elects to convert the same and shall state therein the number of shares of Series A Stock or Series B Stock being converted. Thereupon, this Corporation shall issue and deliver at such office to such holder a certificate or certificates for the number of shares of Common Stock to which such holder is entitled and shall promptly pay all declared but unpaid dividends on the shares being converted. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the certificate or certificates representing the shares to be converted, and the person entitled to receive the shares

of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder of such shares of Common Stock on such date. Notwithstanding the foregoing, if the conversion is in connection with a Liquidation, Qualified IPO (as defined in Subsection (d)(11)(i) below) or the public registration of the Corporation's securities under the Securities Act of 1933, as amended (the "Securities Act"), the conversion may, at the option of any holder tendering Series A Preferred Stock or Series B Preferred Stock for conversion, be conditioned upon the closing of such transaction or series of related transactions, in which event the person(s) entitled to receive the Common Stock issuable upon conversion of the Series A Preferred Stock or Series B Preferred Stock, as the case may be, shall not be deemed to have converted such Series A Preferred Stock or Series B Preferred Stock until immediately prior to the final closing of such transaction or series of transactions.

(3) **Adjustment for Stock Splits and Combinations.** If this Corporation at any time or from time to time after the Series B Stock Issuance Date effects a division of the outstanding shares of Common Stock, the Series A Conversion Price and the Series B Conversion Price shall be proportionately decreased and, conversely, if this Corporation at any time, or from time to time, after the Series B Stock Issuance Date combines the outstanding shares of Common Stock, the Series A Conversion Price and the Series B Conversion Price shall be proportionately increased. Any adjustment under this Section (d)(3) shall be effective on the close of business on the date such division or combination becomes effective.

(4) **Adjustment for Certain Dividends and Distributions.** If this Corporation at any time or from time to time after the Series B Stock Issuance Date pays or fixes a record date for the determination of holders of shares of Common Stock entitled to receive a dividend or other distribution in the form of shares of Common Stock, or rights or options for the purchase of, or securities convertible into, Common Stock, then in each such event the Series A Conversion Price and the Series B Conversion Price shall be decreased, as of the time of such payment or, in the event a record date is fixed, as of the close of business on such record date, by multiplying the Series A Conversion Price and the Series B Conversion Price by a fraction (i) the numerator of which shall be the total number of shares of Common Stock outstanding immediately prior to the time of such payment or the close of business on such record date and (ii) the denominator of which shall be (A) the total number of shares of Common Stock outstanding immediately prior to the time of such payment or the close of business on such record date plus (B) the number of shares of Common Stock issuable in payment of such dividend or distribution or upon exercise of such option or right of conversion; provided, however, that if a record date is fixed and such dividend is not fully paid or such other distribution is not fully made on the date fixed therefor, the Series A Conversion Price and the Series B Conversion Price shall not be decreased as of the close of business on such record date as hereinabove provided as to the portion not fully paid or distributed and thereafter the Series A Conversion Price and the Series B Conversion Price shall be decreased pursuant to this Section (4) as of the date or dates of actual payment of such dividend or distribution.

(5) **Adjustments for Other Dividends and Distributions.** If this Corporation at any time or from time to time after the Series B Stock Issuance Date pays, or

fixes a record date for the determination of holders of shares of Common Stock entitled to receive, a dividend or other distribution in the form of securities of this Corporation other than shares of Common Stock or rights or options for the purchase of, or securities convertible into, Common Stock, then in each such event provision shall be made so that the holders of the outstanding shares of Series A Stock and the holders of the outstanding shares of Series B Stock shall receive upon conversion thereof, in addition to the number of shares of Common Stock receivable thereupon, the amount of securities of this Corporation which they would have received had their respective shares of Series A Stock and Series B Stock been converted into shares of Common Stock on the date of such event and had such holders thereafter, from the date of such event to and including the actual date of conversion of their shares, retained such securities, subject to all other adjustments called for during such period under this Section (d) with respect to the rights of the holders of the outstanding shares of Series A Stock and the holders of the outstanding shares of Series B Stock.

(6) **Adjustment for Reclassification, Exchange and Substitution.** If, at any time or from time to time after the Series B Stock Issuance Date, the number of shares of Common Stock issuable upon conversion of the shares of Series A Stock and Series B Stock is changed into the same or a different number of shares of any other class or classes of stock or other securities, whether by recapitalization, reclassification or otherwise (other than a recapitalization, division or combination of shares or stock dividend or a reorganization, merger, consolidation or sale of assets provided for elsewhere in this Section (d)), then, in any such event, each holder of outstanding shares of Series A Stock and each holder of outstanding shares of Series B Stock shall have the right thereafter to convert such shares of Series A Stock and Series B Stock into the same kind and amount of stock and other securities receivable upon such recapitalization, reclassification or other change, as the maximum number of shares of Common Stock into which such shares of Series A Stock and Series B Stock could have been converted immediately prior to such recapitalization, reclassification or change, all subject to further adjustment as provided herein.

(7) **Reorganizations, Mergers, Consolidations or Sales of Assets.** If, at any time or from time to time after the Series B Stock Issuance Date, there is a capital reorganization of the Common Stock (other than a recapitalization, division, combination, reclassification or exchange of shares provided for elsewhere in this Section (d)) or a merger or consolidation of this Corporation into or with another corporation or a sale of all or substantially all of this Corporation's properties and assets to any other person, then, as a part of such capital reorganization, merger, consolidation or sale, provision shall be made so that the holders of the outstanding shares of Series A Stock and the holders of the outstanding shares of Series B Stock shall thereafter receive upon conversion thereof the number of shares of stock or other securities or property of this Corporation, or of the successor corporation resulting from such merger or consolidation or sale, to which a holder of the number of shares of Common Stock into which their shares of Series A Stock and Series B Stock were convertible would have been entitled on such capital reorganization, merger, consolidation or sale. In any such case, appropriate adjustment shall be made in the application of the provisions of this Section (d) with respect to the rights of the holders of the outstanding shares of Series A Stock and Series B Stock after the

capital reorganization, merger, consolidation, or sale to the end that the provisions of this Section (d) (including adjustment of the Series A Conversion Price and Series B Conversion Price and the number of shares into which the shares of Series A Stock and Series B Stock may be converted) shall be applicable after that event and be as nearly equivalent to such Conversion Prices and number of shares as may be practicable.

(8) Sale of Shares Below Conversion Price.

(i) If, at any time or from time to time after the Series A Stock Issuance Date, this Corporation issues or sells, or is deemed by the express provisions of this Subsection (d)(8) to have issued or sold, Additional Shares of Common Stock (as hereinafter defined in Clause (iv) below)) for an Effective Price (as hereinafter defined at the end of this paragraph) less than the then current Series A Conversion Price or Series B Conversion Price, then, in any such event, the Series A Conversion Price (if the Effective Price is less than the then current Series A Conversion Price), or the Series B Conversion Price (if the Effective Price is less than the then current Series B Conversion Price), or both (if the Effective Price is less than both the then current Series A Conversion Price and the Series B Conversion Price) shall be reduced, as of the close of business on the date of such issuance or sale, to an amount determined by multiplying the then current Series A Conversion Price or Series B Conversion Price, or both, as applicable, by a fraction (A) the numerator of which shall be (x) the number of shares of Common Stock outstanding at the close of business on the day immediately preceding the date of such issuance or sale, plus (y) the number of shares of Common Stock which the aggregate consideration received (or by the express provisions hereof deemed to have been received) by this Corporation for the total number of Additional Shares of Common Stock so issued or sold would purchase at such then current Series A Conversion Price or Series B Conversion Price, or both, as applicable, and (B) the denominator of which shall be the number of shares of Common Stock outstanding immediately prior to such issuance plus the number of such Additional Shares of Common Stock so issued. For the purpose of the above calculation, the number of shares of Common Stock outstanding immediately prior to such issuance shall be calculated on a fully diluted basis, as if all Convertible Securities (as defined below) bearing a conversion price which is lower than the price at which the Additional Shares of Common Stock were issued (except for Series A Stock and Series B Stock, which shall be deemed converted regardless of their Conversion Price) had been fully converted into shares of Common Stock and any outstanding Options (as defined below) bearing an exercise price which is lower than the price at which the Additional Shares of Common Stock were issued had been fully exercised (and the resulting securities fully converted into shares of Common Stock, if so convertible) as of such date. "Convertible Securities" means any evidences of indebtedness, shares (other than Common Stock) or other securities convertible into or exchangeable for Common Stock, and "Options" means rights, options or warrants to subscribe for, purchase or otherwise acquire either Common Stock or Convertible Securities. The "Effective Price" of Additional Shares of Common Stock shall mean the quotient obtained by dividing the total number of Additional Shares of Common Stock issued or sold, or deemed to have been issued or sold, under this Section (8) into the aggregate consideration received, or deemed to have been received for such Additional Shares of Common Stock.

(ii) For the purpose of making any adjustment required under this Subsection (d)(8), the consideration received by this Corporation for any issuance of securities shall (A) to the extent it consists of property other than cash, be the fair value of that property as reasonably determined in accordance with the procedures set forth in Subsection (b)(4)(iii) above in the event of a Liquidation; and (B) if Additional Shares of Common Stock, Convertible Securities or Options are issued together with other stock or securities or other assets of this Corporation for a consideration which covers both, be the portion of the consideration so received reasonably determined by the Board of Directors to be allocable to such Additional Shares of Common Stock, Convertible Securities or Options. Where the Corporation receives no consideration per share, the Corporation shall nonetheless be deemed to have received consideration of \$0.0001 per share for purposes of the adjustments required under this Subsection (d)(8).

(iii) For the purpose of the adjustment required under this Subsection (d)(8), if this Corporation issues any Convertible Securities or Options (other than Options to purchase Convertible Securities), this Corporation shall be deemed to have issued, at the time of the issuance of such Convertible Securities or Options, Additional Shares of Common Stock equal to the maximum number of Additional Shares of Common Stock issuable upon exercise or conversion of such Convertible Securities or Options and to have received as consideration therefor an amount equal to (A) the total amount of the consideration, if any, received by this Corporation for the issuance of such Convertible Securities or Options plus (B) in the case of Options, the minimum amount of consideration, if any, payable to this Corporation upon the exercise of such Options or, in the case of Convertible Securities, the minimum amount of consideration, if any, payable to this Corporation upon the conversion thereof. Thereafter, no further adjustment of the Series A Conversion Price or Series B Conversion Price shall be made as a result of the actual issuance of Additional Shares of Common Stock on the exercise of any such Options or the conversion of any such Convertible Securities. If any such Options or the conversion privilege represented by any such Convertible Securities shall expire or otherwise terminate without having been exercised, the Series A Conversion Price or Series B Conversion Price, or both, as applicable, shall thereafter be the Series A Conversion Price or Series B Conversion Price, or both, as applicable, which would have been in effect had an adjustment been made on the basis that the only Additional Shares of Common Stock so issued were the Additional Shares of Common Stock, if any, actually issued or sold on the exercise of such Options or rights of conversion of such Convertible Securities, and were issued or sold for the consideration actually received by this Corporation upon such exercise plus (A) the consideration, if any, actually received for the granting of all such rights or options, whether or not exercised, (B) the consideration, if any, actually received by issuing or selling the Convertible Securities actually converted and (C) the consideration, if any, actually received on the conversion of such Convertible Securities. However, if any such Options or Convertible Securities by their terms provide, with the passage of time or otherwise, for any increase in the consideration payable to the Corporation, upon the exercise, conversion or exchange thereof, the Conversion Price for the Series A Stock and Series B Stock, and any subsequent adjustments based thereon, shall upon any such increase or decrease becoming effective be recomputed to

reflect such increase or decrease insofar as it affects such Options or the rights of conversion or exchange under such Convertible Securities.

(iv) For the purpose of the adjustment required under this Subsection (d)(8), if this Corporation issues any Options to purchase Convertible Securities, this Corporation shall be deemed to have issued, at the time of the issuance of such Options, Additional Shares of Common Stock equal to the number of shares of Common Stock issuable upon conversion of the total number of Convertible Securities covered by such Options (as set forth in the legal instruments setting forth the terms of such Convertible Securities) and to have received as consideration therefor an amount equal to the amount of consideration, if any, received for the issuance of such Options plus (A) the minimum amount of consideration, if any, payable upon the exercise of such Options and (B) the minimum amount of consideration, if any, payable upon the conversion of such Convertible Securities. No further adjustment of the Series A Conversion Price or Series B Conversion Price, as applicable, shall be made as a result of the actual issuance of the Convertible Securities upon the exercise of such Options or upon the actual issuance of shares of Common Stock upon the conversion of such Convertible Securities. The provisions of Subsection (d)(8)(iii) for the adjustment of the Series A Conversion Price or Series B Conversion Price, as applicable, upon the expiration of Options or the rights of conversion of Convertible Securities shall apply mutatis mutandis upon the expiration of the Options and Convertible Securities referred to in this Clause (iv).

(v) For purposes of this Subsection (d)(8), "Additional Shares of Common Stock" shall mean all shares of Common Stock issued or deemed to be issued under this Subsection (d)(8) after the Series A Stock Issuance Date. However, the following securities (including, where such securities are Options or Convertible Securities, Common Stock that may be purchased upon exercise or conversion thereof) shall not be "Additional Shares of Common Stock:" (A) any securities issued pursuant to an adjustment required to be made pursuant to Subsection (d)(3), (d)(4), (d)(5), (d)(6) or (d)(7); (B) any Options heretofore or hereafter granted under the Corporation's 1998 Stock Incentive Plan (provided that such Options hereafter granted are approved by the Board of Directors) or any Options hereafter granted under any other stock option plan of the Corporation hereafter approved by the Board of Directors; (C) the warrants issued as part of the Series A Transactions (as defined below); (D) securities issued in connection with bona fide, arms' length bank financings, corporate partnering transactions or equipment leases approved by the Board of Directors; (E) securities issued pursuant to a transaction, or series of related transactions, approved by the Board of Directors in which the Corporation acquires all or substantially all of the assets of another entity or more than fifty percent (50%) or of the voting power or equity ownership of another entity; (F) shares of Common Stock issued upon conversion of the shares of Series A Stock; (G) securities issued pursuant to the terms of that certain Agreement dated August 14, 2003, by and between the Corporation and Carousel Leasing Co., LLC; or (H) securities offered by the Corporation to the public pursuant to a Qualified IPO. The "Series A Transactions" mean the transactions referred to in the Series A Preferred Stock Purchase Agreement entered into on or about the Series A Stock Issuance Date between the Corporation and Fundamental Capital ATI Investors, LLC or in

the Note and Warrant Purchase Agreement entered into on or about the Series A Stock Issuance Date between the Corporation and GCG CBIC Investors, LP.

(9) **Certificate of Adjustment.** Upon the occurrence of each adjustment or readjustment of the Series A Conversion Price or Series B Conversion Price, the Corporation, at its sole expense, shall promptly compute such adjustment or readjustment in accordance with the terms hereof and prepare and furnish to each holder of Series A Stock or Series B Stock, as applicable, a certificate signed by the CEO and CFO of the Corporation setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, upon the written request at any time of any holder of Series A Stock or Series B Stock furnish or cause to be furnished to such holder a like certificate setting forth (i) such adjustments and readjustments, (ii) the applicable Conversion Price 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 Series A Stock or Series B Stock, as the case may be. Assuming the issuance of 4,181,234 shares of Series B Preferred Stock at a purchase price of \$0.4783276 per share, and assuming that no other issuance of Additional Shares of Common Stock shall have occurred between the Series A Stock Issuance Date and the Series B Stock Issuance Date, the adjusted Series A Conversion Price as of the Series B Stock Issuance Date shall be \$1.60 per share.

(10) **Notices of Record Date.** In the event of (i) any taking by this 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 (ii) any capital reorganization of this Corporation, any reclassification or recapitalization of the capital stock of this Corporation, any merger or consolidation of this Corporation with or into any other corporation, or any transfer of all or substantially all of the assets of the Corporation, or any voluntary or involuntary dissolution, liquidation or winding up of this Corporation, this Corporation shall mail to each holder of shares of Series A Stock and Series B Stock at least fifteen (15) days prior to the record date specified therein (or such shorter notice period as a majority of the shares held by the holders of each series of Series A Stock and Series B Stock shall consent to in writing at any time, or such longer period as may be required under Section (b)(3) of this Article III), a notice specifying (i) the date on which any such record is to be taken for the purpose of such dividend or distribution and a description of such dividend or distribution; (ii) the date on which any such reorganization, reclassification, transfer, consolidation, merger, dissolution, liquidation or winding up is expected to become effective and the specific details thereof; and (iii) the date, if any, that is to be fixed as to when the holders of record of shares of Common Stock (or other securities) shall be entitled to exchange their shares of Common Stock (or other securities) for securities or other property deliverable upon such reorganization, reclassification, transfer, consolidation, merger, dissolution, liquidation or winding up.

(11) Automatic Conversion.

(i) Provided all declared and unpaid dividends have been paid or will be paid as provided in Clause (11)(ii) below, each share of Series A Stock and Series B Stock shall automatically be converted into shares of Common Stock based upon the respective Conversion Prices then in effect upon the earlier of (i) the date specified by written consent of holders of no less than (x) a majority of the shares of Series A Stock then outstanding and (y) a majority of the shares of Series B Stock then outstanding, and (ii) the closing of an underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, covering the underwritten offering and sale of shares of Common Stock for the account of the Corporation (other than a registration statement effected solely to implement an employee benefit plan, a transaction in which Rule 145 of the Securities and Exchange Commission is applicable or any other form or type of registration in which the shares of Common Stock issuable upon conversion of the shares of Series A Stock and Series B Stock cannot be included pursuant to the Securities and Exchange Commission rules or practices) which results in aggregate net cash proceeds to the Corporation of at least \$25,000,000 and at a per share price of at least four times the per share Series B Stock Issuance Price (Appropriately Adjusted) (a "Qualified IPO").

(ii) Upon the occurrence of an event specified in Section (11)(i) above, the outstanding shares of Series A Stock and Series B Stock shall be converted into outstanding shares of Common Stock, whether or not the certificates representing such shares are surrendered to the Corporation or its transfer agent. Upon the automatic conversion of the outstanding shares of Series A Stock and Series B Stock, the Corporation shall notify the holders of the outstanding shares of Series A Stock and the holders of outstanding shares of Series B Stock and thereafter such holders shall surrender the certificates representing such shares at the office of the Corporation or any transfer agent for the shares. Thereupon there shall be issued and delivered to such holder, promptly at such office and in its name as shown on such surrendered certificate or certificates, a certificate or certificates for the number of shares of Common Stock into which the surrendered shares of Series A Stock or Series B Stock of such holder were convertible on the date on which such automatic conversion occurred, and the Corporation shall promptly pay in cash all declared but unpaid dividends on the shares of Series A Stock and Series B Stock so converted.

(12) Fractional Shares. No fractional shares of Common Stock shall be issued upon conversion of the shares of Series A Stock or Series B Stock. In lieu of any fractional share to which the holder of such shares would otherwise be entitled, the Corporation shall pay cash equal to the product of (i) such fraction multiplied by (ii) the fair market value of one share of the Common Stock on the date of conversion, as determined in good faith by the Board of Directors.

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

Series B Stock, such number of shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of Series A Stock and Series B Stock. 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 Series A Stock and Series B Stock, the Corporation shall take such action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purpose.

(14) **Notices.** Any notice required by the provisions of this Section (d) to be given to a holder of shares of Series A Stock or Series B Stock shall be in writing and, if by personal delivery (including courier or Federal Express), shall be deemed to have been validly served, given or delivered upon actual delivery and if mailed, shall be deemed to have been validly served, given or delivered three (3) business days after deposit in the United States mails, as registered or certified mail, with proper postage prepaid and addressed to the party or parties to be notified, at the addresses appearing on the books of the Corporation (or such other address(es) as a party may designate for itself by like notice) or pursuant to written agreements between the parties.

(15) **No Dilution or Impairment.** The Corporation shall not amend its Articles of Incorporation or participate in any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action for the purpose of avoiding or seeking 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 carrying out all such action as may be reasonably necessary or appropriate in order to protect the rights of the holders of the shares of Series A Stock and the holders of the shares of the Series B Stock against dilution (as contemplated herein, and except as otherwise permitted herein) or other impairment of their rights.

(e) **NO RE-ISSUANCE.** No share or shares of Series A Stock or Series B Stock acquired by the Corporation by reason of redemption, purchase or otherwise shall be reissued, and all such shares shall be cancelled, retired and eliminated from the shares which the Corporation shall be authorized to issue.

(f) **RESTRICTIONS AND LIMITATIONS.**

(i) **Series A and Series B Protective Covenants.** In addition to any other rights provided by law, so long as no less than 25% of the originally issued shares of Series A Stock or shares of Series B Stock shall be outstanding (Appropriately Adjusted), the Corporation shall not, without first obtaining the affirmative vote or written consent of the holders of a majority of the outstanding shares of Series A Preferred Stock and outstanding shares of Series B Preferred Stock, each voting as a separate class:

(A) alter or change the rights, preferences or privileges of the Series A Preferred Stock or Series B Preferred Stock;

(B) increase the authorized number of shares of Series Preferred A Stock or Series B Preferred or issue or sell any additional shares of Series A Preferred Stock;

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

(D) create any new class or series of shares;

(E) effect the merger, consolidation or reorganization of the Corporation, sale of all or substantially all of the Corporation's assets or sale of the Corporation's securities in one transaction or a series of related transactions, which, if issued at the same time, would constitute more than 50% of the outstanding securities of the Corporation;

(F) effect any transaction which would result in a dividend to holders of Series A Preferred Stock or Series B Preferred Stock;

(G) pay dividends (other than in Common Stock) on the Common Stock;

(H) redeem, purchase or otherwise acquire shares of Preferred Stock or Common Stock other than (a) by redemption in accordance with Section (g) below, (b) by conversion in accordance with Section (d) above, (c) in accordance with the Shareholders Agreement entered into in connection with the Series A Transactions, as amended in from time to time in accordance with the terms thereof, including any amendments entered into in connection with the original issuance of the Series B Stock, or (d) in accordance with any agreement entered into between the Corporation and any of its Directors, officers, employees or consultants and approved by the Board of Directors;

(I) enter into any agreement or contract that specifically by its terms restricts the Corporation's ability to redeem the Series A Preferred Stock or Series B Preferred Stock (other than any agreements in effect on the date hereof or entered into in connection with the Series A Transactions, as amended in from time to time in accordance with the terms thereof, including any amendments entered into in connection with the original issuance of the Series B Stock; or

(J) issue any additional equity, Options or Convertible Securities.

(ii) **Additional Protective Covenants.** In addition to any other rights provided by law, during such period, if any, during which the holders of Series A Preferred Stock and Series B Preferred Stock are entitled collectively as separate classes to elect three members of the Corporation's Board of Directors, the Corporation shall not, without first obtaining the affirmative vote or written consent of the holders of a majority of the outstanding shares of Common Stock, Series A Preferred Stock and Series B Preferred Stock, voting together as a single class on an as-converted to Common Stock basis:

(A) enter into the ownership, active management or operation of any business other than the businesses contemplated by the Corporation immediately prior to such period; or

(B) enter into any transactions with, or pay any amounts to, any of the following persons or entities, except as expressly required by these articles of incorporation or by law: (i) an existing or former holder of Series A Stock or Series B Stock (a "Holder"); (ii) an affiliate (as such term is defined in the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder) of a Holder; (iii) a shareholder, partner, member, director, officer or employee of a Holder or of any affiliate of a Holder, or (iv) any entity in which any person or entity listed in clause (i), (ii) or (iii) owns, directly or indirectly, any equity interest (other than no more than 5% of a class of stock traded on any national securities exchange or on NASDAQ).

(C) amend, repeal, alter or waive any provisions of the Bylaws of the Corporation.

(g) **REDEMPTION RIGHTS.**

(1) **Timing.** If the Corporation has not consummated a Qualified IPO prior to the fifth anniversary date of the Series A Stock Issuance Date and provided that more than 25% of the originally issued shares of Series A Preferred Stock and Series B Preferred Stock are then outstanding (as Appropriately Adjusted), then at any time thereafter if the holders of more than 50% of the then outstanding shares of Series A Preferred Stock and Series B Preferred Stock, each voting as a separate class (each such person, a "Requesting Holder") vote in favor of requiring the Corporation to redeem all or any portion of the shares of Series A Preferred Stock and Series B Preferred Stock held by such Requesting Holders, then subject to the limitations of applicable law on the Corporation's ability to make distributions to stockholders, the Corporation shall redeem such Requesting Holders shares of Series A Stock and Series B Stock at a price per share equal to the greater of (A) the applicable Issuance Price (Appropriately Adjusted) together with an amount equal to the greater of (i) five percent (5.0%) of the Series A Stock Issuance Price compounded annually at the rate of 5.0% for each year (or fraction thereof) after the Series A Stock Issuance Date with respect to the shares of Series A Stock and five percent (5.0%) of the Series B Stock Issuance Price compounded annually at the rate of 5.0% for each year (or fraction thereof) after the Series B Stock Issuance Date with respect to the shares of Series B Stock or (ii) any declared and unpaid dividends thereon with respect to such Series A Stock or Series B Stock, respectively and (B) the fair market value per share of Series A Preferred Stock and Series B Preferred Stock, as applicable, as determined in good faith by the Board of Directors (the "Redemption Price"), upon written notice to the Corporation specifying the number of shares of Series A Preferred Stock and Series B Preferred Stock to be redeemed (a "Redemption Notice"). Upon its receipt of a Redemption Notice, the Corporation shall promptly notify each other holder of Series A Preferred Stock and Series B Preferred Stock in writing of its receipt of such Redemption Notice (the "Corporation Redemption Notice") and of a date for redemption of the shares of Series A Preferred Stock and Series B Preferred Stock to be redeemed pursuant to this Section (g), which date (the "Redemption Date") shall be not later than 60 days after the date of the Corporation's receipt of the first Redemption Notice. Each such other holder of Series A Preferred Stock or Series B Preferred Stock shall have the right to require the Corporation to

redeem its shares of Series A Preferred Stock and Series B Preferred Stock, in whole or in part, on the Redemption Date, by delivering a Redemption Notice to the Corporation within 10 days after redemption of the Corporation Redemption Notice. Each holder of either Series A Preferred Stock or Series B Preferred Stock shall continue to have the rights set forth in this Section (g) and the Corporation shall be obligated to redeem shares of Series A Preferred Stock and Series B Preferred Stock at any time within 60 days following a subsequent delivery of a Redemption Notice to the Corporation after the initial Redemption Date by any remaining holders of Series A Preferred Stock or Series B Preferred Stock (each date an additional "Redemption Date" and each such holder also a "Requesting Holder").

(2) **Redemption Payment.** On each applicable Redemption Date, the Corporation shall be obligated to pay to each holder of Series A Preferred Stock and Series B Preferred Stock that has delivered a Redemption Notice to the Corporation (upon surrender by such holder at the Corporation's principal office of the certificate representing the shares of Series A Preferred Stock and Series B Preferred Stock to be redeemed) an amount in immediately available funds equal to the applicable Redemption Price for the Series A Stock and Series B Stock, as applicable, to be redeemed on such Redemption Date. If the funds of the Corporation legally available for redemption of shares of Series A Stock or Series B Stock on any Redemption Date are insufficient to redeem the total number of shares of Series A Stock and Series B Stock to be redeemed on such date, those funds which are legally available will be used to redeem the maximum possible number of such shares ratably among the holders of such shares to be redeemed based upon their holdings of Series A Stock and Series B Stock and their respective Redemption Prices. At any time thereafter when additional funds of the Corporation are legally available for the redemption of shares of Series A Preferred Stock and Series B Preferred Stock, such funds will immediately be used to redeem the balance of the shares that the Corporation shall have become obliged to redeem on the Redemption Date but that it shall not have redeemed unless a Requesting Holder has rescinded its Redemption Notice as provided below. In the event of different Redemption Dates, the Series A Stock and Series B Stock subject to the earlier Redemption Dates shall be redeemed in full prior to any redemption of Series A Stock or Series B Stock subject to redemption under later Redemption Dates.

(3) **Further Actions.** Upon receipt of a Redemption Notice, the Corporation shall be obligated to use its reasonable commercial efforts to take such actions as may be necessary in order to permit the full and timely redemption of the shares of Series A Preferred Stock and Series B Preferred Stock entitled to redemption.

(4) **Failure to Redeem.** If the Corporation fails to redeem any Series A Stock or Series B Stock so requested to be redeemed at the appropriate Redemption Date, for so long as such Requesting Holder does not rescind his election to redeem as described in the immediately following sentence, the applicable Redemption Price for each such share shall be increased at the rate of 12% per annum (compounded annually) (the "Deferred Redemption Price") from such Redemption Date through the date the Corporation tendered payment of the Deferred Redemption Price. Upon such failure to redeem, any Requesting Holder may also rescind his or its election to be redeemed by written notice to the Corporation.

IV

(a) **LIMITATION OF DIRECTORS' LIABILITY.** The liability of the directors of this Corporation for monetary damages shall be eliminated to the fullest extent permissible under California law.

(b) **INDEMNIFICATION OF CORPORATE AGENTS.** This Corporation is authorized to provide indemnification of agents (as defined in Section 317 of the California Corporations Code) through bylaw provisions, agreements with agents, vote of shareholders or disinterested directors or otherwise, in excess of the indemnification otherwise permitted by Section 317 of the California Corporations Code, subject only to the applicable limits set forth in Section 204 of the California Corporations Code with respect to actions for breach of duty to this Corporation and its shareholders.

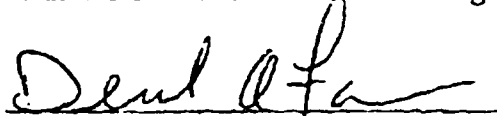
(c) **REPEAL OR MODIFICATION.** Any repeal or modification of the foregoing provisions of this Article IV shall not adversely affect any right of indemnification or limitation of liability of an agent of this Corporation relating to acts or omissions occurring prior to such repeal or modification."

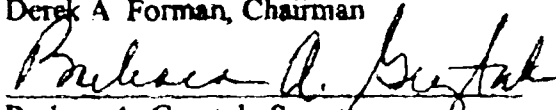
3. The foregoing Second Amended and Restated Articles of Incorporation have been duly approved and adopted by the Board of Directors of the Corporation.

4. The foregoing Second Amended and Restated Articles of Incorporation have been duly approved by the required vote of shareholders in accordance with Sections 902 and 903 of the California Corporations Code. The total number of shares outstanding is 5,000,000 shares of Common Stock and 1,549,775 shares of Series A Preferred Stock. The number of shares voting in favor of the amendment equaled or exceed the vote required. The percentage vote required was more than 50% of each class of the outstanding shares.

Each of the undersigned declares under penalty of perjury under the laws of the State of California that the matters set forth herein are true and correct of his own knowledge.

Date: April 27, 2006


Derek A. Forman, Chairman


Barbara A. Greytak, Secretary