

AMENDED AND RESTATED CERTIFICATE OF INCORPORATION

OF

3JAM, INC.

3jam, Inc., a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "Corporation"), **HEREBY CERTIFIES THAT:**

1. The name of this Corporation is 3jam, Inc. This Corporation was originally incorporated under the same name; the original Certificate of Incorporation was filed with the Secretary of State of the State of Delaware on April 3, 2006.
2. By unanimous written consent of the Board of Directors of this Corporation, filed with the minutes of this Corporation, resolutions were duly adopted setting forth the proposed amendment and restatement of the Certificate of Incorporation of this Corporation and declaring said amendment and restatement to be advisable.
3. The stockholders of this Corporation took action by executing a written consent in lieu of a meeting in accordance with Section 228 of the General Corporation Law of the State of Delaware to approve such amendment and restatement. The holders of a majority of the outstanding stock entitled to consent thereto have granted written consent with respect to such stock in favor of said amendment and restatement.
4. Such amendment and restatement was duly adopted in accordance with the provisions of Sections 242 and 245 of the General Corporation Law of the State of Delaware. This Amended and Restated Certificate of Incorporation amends and restates the provisions of the existing Certificate of Incorporation of this Corporation in its entirety to read as follows:

ARTICLE I

The name of this corporation is 3jam, Inc. (the "Corporation").

ARTICLE II

The address of the registered office of this Corporation in the State of Delaware is 2711 Centerville Road, Suite 400, Wilmington, 19808, County of New Castle. The name of its registered agent at such address is Corporation Service Company.

ARTICLE III

The nature of the business of this Corporation and the objects or purposes to be transacted, promoted or carried on by it are to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware (the "General Corporation Law").

State of Delaware
Secretary of State
Division of Corporations
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ARTICLE IV

A. Classes of Stock

This Corporation is authorized to issue two classes of stock to be designated, respectively, Common Stock and Preferred Stock. The total number of shares of Common Stock that this Corporation is authorized to issue is three million three hundred thirty three thousand three hundred thirty three (3,333,333) shares, each with a par value of \$0.01 per share. The total number of shares of Preferred Stock that this Corporation is authorized to issue is one million three hundred thirty three thousand three hundred thirty three (1,333,333) shares, each with a par value of \$0.01 per share, all of which are designated, and referred to herein, as Series A Preferred Stock.

B. Rights, Preferences and Restrictions of Preferred Stock

The powers, preferences, privileges and other rights, and the qualifications, limitations and restrictions granted to and imposed on the Series A Preferred Stock are as set forth below in this Section IV(B).

1. Dividend Provisions

(a) The holders of shares of Series A Preferred Stock are entitled to receive cash dividends, out of any assets legally available therefor, prior and in preference to any declaration or payment of any dividend (payable other than in Common Stock or other securities and rights convertible into or entitling the holder thereof to receive, directly or indirectly, additional shares of Common Stock of this Corporation) on the Common Stock of this Corporation, at the rate of \$0.08 per share per annum for the Series A Preferred Stock (as adjusted for any stock splits, subdivisions, stock dividends, combinations, recapitalizations and the like (collectively, Recapitalizations)), payable when, as and if declared by the Board of Directors. Such dividends will accrue on a daily basis, whether or not earned or declared. Such dividends will not be cumulative.

(b) After payment of any dividends pursuant to Section IV(B)(1)(a), any additional dividends will be distributed among all holders of Common Stock and all holders of Series A Preferred Stock in proportion to the number of shares of Common Stock which would be held by each such holder if all shares of such series of Preferred Stock were converted to Common Stock at the then effective conversion rate for the Series A Preferred Stock.

(c) Each dividend declared by the Board of Directors on the Preferred Stock will be paid to holders of record of shares of the Preferred Stock as they appear on the stock register of the Corporation on the record date, which will be 15 days before the dividend payment date. Dividends in arrears for any past dividend period may be declared and paid at any time fixed by the Board of Directors, whether or not a regular dividend payment date, to holders of record of shares of Preferred Stock as they appear on the stock register on the record date (which will be 15 calendar days before the anticipated payment date) and all such dividend payments will be applied in the order in which such accumulated and unpaid dividends were originally due.

2. Liquidation Preference

(a) In the event of any liquidation, dissolution or winding up of this Corporation, whether voluntary or involuntary, the holders of Series A Preferred Stock are entitled to receive, prior and in preference to any distribution of any of the assets of this Corporation to the holders of Common Stock (and holders of any other stock ranking junior on liquidation to the Series A Preferred Stock) by reason of their ownership thereof, an amount per share equal to the sum of (A) \$1.00 and (B) an amount equal to all declared and unpaid dividends on such share (each subject to adjustment for Recapitalizations) (the "Series A Preferential Amount"). If upon the occurrence of such event, the assets and funds thus distributed among the holders of the Series A Preferred Stock are insufficient to permit the payment to such holders of the full aforesaid preferential amounts, then the entire assets and funds of this Corporation legally available for distribution to stockholders will be distributed ratably among the holders of the Series A Preferred Stock in proportion to the full preferential amount each such holder is otherwise entitled to receive under this Section IV(B)(2)(a).

(b) Upon completion of the distribution required by Section IV(B)(2)(a), all of the remaining assets of this Corporation available for distribution to stockholders will be distributed among the holders of Common Stock pro rata based on the number of shares of Common Stock then held by each.

(c) (i) For purposes of this Section IV(B)(2), a liquidation, dissolution or winding up of this Corporation will be deemed to be occasioned by, or to include (unless at the affirmative election (by vote or written consent) of the holders of at least sixty percent (60%) of the voting power of the outstanding shares of Series A Preferred Stock, with voting rights determined in accordance with Section IV(B)(5), determines otherwise):

(A) the merger of this Corporation with or into another entity by means of any one transaction or a series of related transactions (including, without limitation, any acquisition, reorganization or consolidation, but excluding any merger effected exclusively for the purpose of changing the domicile of this Corporation in which this Corporation's stockholders of record as constituted immediately prior to such merger do not, immediately after such merger (by virtue of securities issued as consideration for this Corporation's acquisition or otherwise), hold at least 50% of the voting power of the resulting or surviving entity following such merger; (B) the closing of the transfer (whether by merger, consolidation or otherwise) in one transaction or a series of related transactions to a person or group of affiliated persons (other than an underwriter of this Corporation's securities) of this Corporation's securities if, after such closing, such person or group of affiliated persons would hold at least 50% of the outstanding voting stock of this Corporation (or the surviving or acquiring entity); or (C) the sale, lease, pledge or other disposition to another person(s) of all or substantially all of the assets of this Corporation in one transaction or a series of related transactions. Any such transaction contemplated by clause (A) or (B) of this Section IV (B)(2)(c)(i) will hereinafter be referred to as a "Corporate Transaction."

(ii) If the consideration received by this Corporation in any Corporate Transaction is other than cash, its value will be deemed to be its fair market value as determined below:

(A) Securities not subject to investment letter or other similar restrictions on free marketability (other than restrictions arising solely by virtue of a stockholder's status as an affiliate or former affiliate):

(1) if traded on a securities exchange or through the Nasdaq National Market, the value will be deemed to be the average of the closing prices of the securities on such market over the thirty (30) day period ending five (5) days prior to the closing of the Corporate Transaction;

(2) if actively traded over-the-counter other than through the Nasdaq National Market, the value will be deemed to be the average of the closing bid or sale prices (whichever is applicable) over the thirty (30) day period ending five (5) days prior to the closing of the Corporate Transaction; and

(3) if there is no active public market, the value will be the fair market value thereof, as determined by the Board of Directors of this Corporation and the holders of at least a majority of the voting power of all then outstanding shares of Preferred Stock (voting together as a single class and not as separate series, and on an as-converted basis).

(B) 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) will be to make an appropriate discount from the value determined as above in Section IV(B)(2)(c)(ii)(A) to reflect the approximate fair market value thereof, as determined by the Board of Directors of this Corporation and the holders of at least a majority of the voting power of all then outstanding shares of Preferred Stock (voting together as a single class and not as separate series, and on an as-converted basis).

(C) The value of assets other than securities will be their fair market value as determined by the Board of Directors of this Corporation and the holders of at least a majority of the voting power of all then outstanding shares of Preferred Stock (voting together as a single class and not as separate series, and on an as-converted basis).

(iii) In the event the requirements of this Section IV(B)(2)(c) are not complied with, this Corporation will forthwith either:

(A) cause such liquidation, dissolution or winding up, or the closing of such Corporate Transaction, to be postponed until such time as the requirements of this Section IV(B)(2)(c) have been complied with; or

(B) cancel such liquidation, dissolution or winding up, or such transaction, in which event the powers, preferences, privileges and other rights and the qualifications, limitations and restrictions of the Series A Preferred Stock, will revert to and be the same as such powers, preferences, privileges and other rights and the qualifications, limitations and restrictions existing immediately prior to the date of the first notice referred to in Section IV(B)(2)(c)(iv) hereof.

(iv) This Corporation shall give each holder of record of Series A Preferred Stock, written notice of such impending transaction not later than thirty (30) days prior

to the stockholders meeting called to approve such transaction, or thirty (30) days prior to the closing of such transaction, whichever 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 impending transaction and the provisions of this Section IV(B)(2) and this Corporation will thereafter give such holders prompt notice of any material changes. The transaction will in no event take place sooner than twenty (20) days after this Corporation has given the first notice provided for herein or sooner than ten (10) days after this Corporation has given notice of any material changes provided for herein; provided, however, that such periods may be shortened upon the written consent of the holders of Preferred Stock that are entitled to such notice rights or similar notice rights and that represent at least a majority of the voting power of all then outstanding shares of such Preferred Stock (voting as a single class and not as separate series, and on an as-converted basis).

3. Redemption

Neither this Corporation nor the holders of shares of Series A Preferred Stock has the right to call or redeem any shares of the Series A Preferred Stock.

4. Conversion

The holders of shares of Series A Preferred Stock will have conversion rights as follows (the Conversion Rights):

(a) Right to Convert. Each share of Series A Preferred Stock (the Convertible Preferred Stock) is convertible, at the option of the holder thereof and without payment of any additional consideration, at any time after the date of issuance of such share at the office of this Corporation or any transfer agent for such stock, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing the applicable Original Issue Price per share (as defined below) for each such series of Convertible Preferred Stock by the conversion price applicable to such share, determined as hereafter provided, in effect on the date the certificate is surrendered for conversion (the Conversion Price). The Original Issue Price for the Series A Preferred Stock is \$1.00 per share (subject to adjustment for Recapitalizations). The initial Conversion Price per share for shares of Series A Preferred Stock is \$1.00 (subject to adjustment for Recapitalizations) (the Series A Conversion Price). The Series A Conversion Price will be subject to adjustment as set forth in Section IV(B)(4)(d).

(b) Automatic Conversion. Each share of Series A Preferred Stock will automatically and without further action on the part of this Corporation or any holder of such series of Preferred Stock be converted into shares of Common Stock at the Conversion Price at the time then in effect for such series of Preferred Stock immediately upon the earlier of (i) except as provided in Section IV(B)(4)(c), this Corporation's sale of its Common Stock in a firm commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended (the Act), the public offering price of which is not less than \$4.00 per share (subject to adjustment for Recapitalizations) and \$25,000,000 in the aggregate (other than a registration statement relating either to the sale of securities to employees of this Corporation pursuant to its stock option, stock purchase or similar plan or a transaction pursuant to Rule 145 under the Act), which results in the Common Stock being listed for trading

on a national securities exchange or the Nasdaq National Market (a Qualifying IPO) or (ii) the date specified by written consent or agreement of the holders of at least at least sixty percent (60%) of the then outstanding shares of Series A Preferred Stock.

(c) Mechanics of Conversion. Before any holder of Convertible Preferred Stock will be entitled to convert the same into shares of Common Stock, he, she or it must (i) surrender the certificate or certificates therefor, duly endorsed, at the office of this Corporation or of any transfer agent for the Convertible Preferred Stock, (ii) give written notice to this Corporation at its principal corporate office, of the election to convert the same and (iii) state therein the name or names in which the certificate or certificates for shares of Common Stock are to be issued. This Corporation will, as soon as practicable thereafter, issue and deliver at such office to such holder of Convertible Preferred Stock, or to the nominee or nominees of such holder, a certificate or certificates for the number of shares of Common Stock to which such holder is entitled as aforesaid. Such conversion will be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of Convertible Preferred Stock to be converted, and the person or persons entitled to receive the shares of Common Stock issuable upon such conversion will be treated for all purposes as the record holder or holders of such shares of Common Stock as of such date. If the conversion is in connection with an underwritten offering of securities registered pursuant to the Act, the conversion may, at the option of any holder tendering shares of Convertible Preferred Stock for conversion, be conditioned upon the closing with the underwriters of the sale of securities pursuant to such offering, in which event the persons entitled to receive the Common Stock upon conversion of the Convertible Preferred Stock will not be deemed to have converted such Convertible Preferred Stock until immediately prior to the closing of such sale of securities. If the conversion is in connection with Automatic Conversion provisions of subsection 4(b)(ii) above, such conversion shall be deemed to have been made on the conversion date described in the stockholder consent approving such conversion, and the persons entitled to receive shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holders of such shares of Common Stock as of such date.

(d) Conversion Price Adjustments of Preferred Stock. The Conversion Price of the Series A Preferred Stock will be subject to adjustment from time to time as follows:

(i) (A) If this Corporation issues, after the date upon which any shares of Series A Preferred Stock were first issued (the Purchase Date), any Additional Stock (as defined below) without consideration or for a consideration per share less than the Series A Conversion Price in effect immediately prior to the issuance of such Additional Stock, the Series A Conversion Price in effect immediately prior to each such issuance shall forthwith (except as otherwise provided in this Section IV(B)(4)(d)(i)) be adjusted to a price determined by multiplying such Series A Conversion Price by a fraction, the numerator of which shall be the number of shares of Common Stock outstanding plus the number of shares of Common Stock deemed issued pursuant to Section IV(B)(4)(d)(i)(E) immediately prior to such issuance plus the number of shares of Common Stock that the aggregate consideration received by this Corporation for such issuance would purchase at such Series A Conversion Price; and the denominator of which shall be the number of shares of Common Stock outstanding plus the number of shares of Common Stock deemed issued pursuant to Section IV(B)(4)(d)(i)(E) immediately prior to such issuance plus the number of shares of such Additional Stock.

(A) [Intentionally omitted.]

(B) No adjustment of the Conversion Price for any series of Convertible Preferred Stock will be made in an amount less than one cent per share, provided that any adjustments that are not required to be made by reason of this sentence will be carried forward and shall be either taken into account in any subsequent adjustment made prior to three (3) years from the date of the event giving rise to the adjustment being carried forward, or will be made at the end of three (3) years from the date of the event giving rise to the adjustment being carried forward. Except to the limited extent provided for in Sections IV(B)(4)(d)(i)(E)(3) and IV(B)(4)(d)(i)(E)(4), no adjustment of such Conversion Price pursuant to this Section IV(B)(4)(d)(i) shall have the effect of increasing the Conversion Price above the Conversion Price in effect immediately prior to such adjustment.

(C) In the case of the issuance of Common Stock for cash, the consideration will be deemed to be the amount of cash paid therefor before deducting any reasonable discounts, commissions or other expenses allowed, paid or incurred by this Corporation for any underwriting or otherwise in connection with the issuance and sale thereof.

(D) In the case of the issuance of the Common Stock for a consideration in whole or in part other than cash, the consideration other than cash will be deemed to be the fair value thereof as determined in good faith by the Board of Directors irrespective of any accounting treatment.

(E) In the case of the issuance (whether before, on or after the applicable Purchase Date) of warrants, options to purchase or rights to subscribe for Common Stock, securities by their terms convertible into or exchangeable for Common Stock or warrants, options to purchase or rights to subscribe for such convertible or exchangeable securities, the following provisions will apply for all purposes of this Section IV(B)(4)(d)(i) and Section IV(B)(4)(d)(ii):

(1) The aggregate maximum number of shares of Common Stock deliverable upon exercise (assuming the satisfaction of any conditions to exercisability including, without limitation, the passage of time, but without taking into account potential antidilution adjustments) of such warrants, options to purchase or rights to subscribe for Common Stock will be deemed to have been issued at the time such warrants, options or rights were issued and for a consideration equal to the consideration (determined in the manner provided in Sections IV(B)(4)(d)(i)(C) and IV(B)(4)(d)(i)(D)), if any, received by this Corporation (without taking into account potential antidilution adjustments) upon the issuance of such warrants, options or rights plus the minimum exercise price provided in such warrants, options or rights for the Common Stock covered thereby.

(2) The aggregate maximum number of shares of Common Stock deliverable upon conversion of, or in exchange (assuming the satisfaction of any conditions to convertibility or exchangeability including, without limitation, the passage of time, but without taking into account potential antidilution adjustments) for any such convertible or exchangeable securities or upon the exercise of options to purchase or rights to subscribe for such convertible or exchangeable securities and subsequent conversion or exchange thereof will

be deemed to have been issued at the time such securities were issued or such options or rights were issued and for a consideration equal to the consideration, if any, received by this Corporation for any such securities and related options or rights (excluding any cash received on account of accrued interest or accrued dividends), plus the minimum additional consideration, if any, to be received by this Corporation (without taking into account potential antidilution adjustments) upon the conversion or exchange of such securities or the exercise of any related options or rights (the consideration in each case to be determined in the manner provided in Sections IV(B)(4)(d)(i)(C) and IV(B)(4)(d)(i)(D)).

(3) In the event of any change in the number of shares of Common Stock deliverable or in the consideration payable to this Corporation upon exercise of such options or rights or upon conversion of or in exchange for such convertible or exchangeable securities, including, but not limited to, a change resulting from the antidilution provisions hereof or thereof, the Conversion Price of each series of Convertible Preferred Stock, to the extent in any way affected by or computed using such options, rights or securities, will be recomputed to reflect such change, but no further adjustment will be made for the actual issuance of Common Stock or any payment of such consideration upon the exercise of any such options or rights or the conversion or exchange of such securities.

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

(5) The number of shares of Common Stock deemed issued and the consideration deemed paid therefor pursuant to Sections IV(B)(4)(d)(i)(E)(1) and IV(B)(4)(d)(i)(E)(2) will be appropriately adjusted to reflect any change, termination or expiration of the type described in either Section IV(B)(4)(d)(i)(E)(3) or IV(B)(4)(d)(i)(E)(4).

(ii) Additional Stock means any shares of Common Stock issued (or deemed to have been issued pursuant to Section IV(B)(4)(d)(i)(E)) by this Corporation after the applicable Purchase Date other than:

(A) shares of Common Stock issued pursuant to a transaction described in Section IV(B)(4)(d)(iii) hereof;

(B) up to 666,667 shares of Common Stock issued or issuable to employees, consultants, directors or vendors (provided such issuances are for other than primarily equity financing purposes and have been approved by the Board of Directors of this Corporation) of this Corporation directly or pursuant to a stock option plan or restricted stock plan approved by the stockholders and Board of Directors of this Corporation;

(C) shares of Common Stock issued or issuable to persons or entities with which the Corporation has strategic or commercial lending business relationships, provided such issuances are for other than primarily equity financing purposes and have been approved by the Board of Directors of this Corporation, including both of the Series A Directors;

(D) Common Stock issued in connection with a bona fide business acquisition of or by this Corporation, whether by merger, consolidation, sale of assets, sale or exchange of stock or otherwise;

(E) Common Stock issued or deemed issued pursuant to Section IV(B)(4)(d)(i)(E) as a result of a decrease in the Conversion Price of any series of Preferred Stock resulting from the operation of Section IV(B)(4)(d);

(F) shares of Common Stock issued or issuable (I) in a Qualifying IPO;

(G) shares of Common Stock issued pursuant to the conversion, exchange or exercise of convertible or exercisable securities (including, without limitation, warrants issued to holders of Preferred Stock at the Purchase Date) outstanding as of the date hereof or subsequently issued pursuant to this Section IV(B)(4)(d)(ii).

(iii) In the event this Corporation should at any time or from time to time after the Purchase Date fix a record date for the effectuation of a split or subdivision of the outstanding shares of Common Stock or the determination of holders of Common Stock entitled to receive a dividend or other distribution payable in additional shares of Common Stock or other securities or rights convertible into, exchangeable for, or entitling the holder thereof to receive directly or indirectly, additional shares of Common Stock (the Common Stock Equivalents) without payment of any consideration by such holder for the additional shares of Common Stock or the Common Stock Equivalents (including the additional shares of Common Stock issuable upon conversion or exercise thereof), then, as of such record date (or the date of such dividend distribution, split or subdivision if no record date is fixed), the Conversion Price of each series of Convertible Preferred Stock will be appropriately decreased so that the number of shares of Common Stock issuable on conversion of each share of such series will be increased in proportion to such increase in the aggregate number of shares of Common Stock outstanding and those issuable with respect to such Common Stock Equivalents, provided, however, that if such record date is fixed and such dividend is not paid or if such distribution is not fully made on the date fixed therefor, the Conversion Price will be re-computed accordingly as of the close of business on such record date and thereafter the Conversion Price will be adjusted pursuant to this Section IV(B)(4) to reflect the actual payment of such dividend or distribution.

(iv) If the number of shares of Common Stock outstanding at any time after the Purchase Date is decreased by a combination of the outstanding shares of Common Stock, then, following the record date of such combination, the Conversion Prices for each series of Convertible Preferred Stock will be appropriately increased so that the number of shares of Common Stock issuable upon conversion of each share of such series will be decreased in proportion to such decrease in outstanding shares.

(e) Other Distributions. In the event this Corporation declares a distribution payable in securities of other persons, evidences of indebtedness issued by this Corporation or other persons, assets (excluding cash dividends) or options or rights not referred to in Section IV(B)(4)(d)(ii), then, in each such case for the purpose of this Section IV(B)(4)(e), the holders of each series of Convertible Preferred Stock will be entitled to a proportionate share of any such distribution as though they were the holders of the number of shares of Common Stock of this Corporation into which their shares of such series of Convertible Preferred Stock are convertible as of the record date fixed for the determination of the holders of Common Stock of this Corporation entitled to receive such distribution.

(f) Reclassifications. If at any time or from time to time the Common Stock of this Corporation is changed into the same or a different number of shares of any class or classes of stock whether by Recapitalization or otherwise (other than a Recapitalization, reclassification, exchange, reorganization, substitution or merger or sale of assets provided for elsewhere in Section IV(B)(2) or this Section IV (B)(4)), provision will be made so that the holders of each series of Convertible Preferred Stock thereafter entitled to receive upon conversion of such series of Convertible Preferred Stock the kind and number of shares of stock or other securities or property of this Corporation or otherwise, to which a holder of the number of shares of Common Stock deliverable upon conversion of the Convertible Preferred Stock held by such holder would have been entitled on such Reclassification. In any such case, appropriate adjustment will be made in the application of the provisions of this Section IV(B)(4) with respect to the rights of the holders of each series of Convertible Preferred Stock after the capital reorganization such that the provisions of this Section IV(B)(4) (including adjustment of the Conversion Price then in effect and the number of shares purchasable upon conversion of each such series of Convertible Preferred Stock) will be applicable after that event as nearly equivalent as may be practicable.

(g) No Impairment. This corporation will not, without the appropriate vote of the stockholders under the General Corporation Law or Section 6 of this Article IV(B), by amendment of its Certificate of Incorporation or through any reorganization, recapitalization, 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 this corporation, but will at all times in good faith assist in the carrying out of all the provisions of this Section IV(B)(4) 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.

(h) No Fractional Shares and Certificate as to Adjustments.

(i) No fractional shares will be issued upon the conversion of any share or shares of Convertible Preferred Stock, and the number of shares of Common Stock to be issued will be rounded to the nearest whole share. The number of shares of Common Stock to be issued upon such conversion will be determined on the basis of the total number of shares of Convertible Preferred Stock the holder is at the time converting into Common Stock and the number of shares of Common Stock issuable upon such aggregate conversion.

(ii) Upon the occurrence of each adjustment or readjustment of the Conversion Price of any series of Convertible Preferred Stock pursuant to this Section IV(B)(4), this Corporation, at its expense, will promptly compute such adjustment or readjustment in accordance with the terms hereof and prepare and furnish to each holder of such series of Convertible Preferred Stock a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. This Corporation will, upon the written request at any time of any holder of Convertible Preferred Stock, furnish or cause to be furnished to such holder a like certificate setting forth (A) such adjustment and readjustment, (B) the Conversion Price for such series of Convertible Preferred Stock at the time in effect, and (C) the number of shares of Common Stock and the amount, if any, of other property that at the time would be received upon the conversion of a share of such series of Convertible Preferred Stock.

(i) Notices of Record Date. In the event of 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 (other than a cash dividend) or other distribution, 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, this Corporation will mail to each holder of Convertible Preferred Stock, at least twenty (20) 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, distribution or right, and the amount and character of such dividend, distribution or right.

(j) Reservation of Stock Issuable Upon Conversion, Exercise or Exchange. This Corporation will at all times reserve and keep available out of its authorized but unissued shares of (i) Common Stock, solely for the purpose of effecting the conversion of the shares of Convertible Preferred Stock, such number of its shares of Common Stock as will from time to time be sufficient to effect the conversion of all outstanding shares of Convertible Preferred Stock, and (ii) Convertible Preferred Stock issuable upon exercise of any outstanding options, warrants or other rights, and if at any time the number of authorized but unissued shares of Common Stock and Convertible Preferred Stock, as applicable are not sufficient to effect the conversion of all then outstanding shares of Convertible Preferred Stock, in addition to such other remedies as are available to the holder of such Convertible Preferred Stock or options, warrants or other rights, this Corporation will take such corporate action as it deems necessary to increase its authorized but unissued shares of Common Stock and Convertible Preferred Stock, as applicable, to such number of shares as will be sufficient for such purposes, including, without limitation, using its best efforts to obtain the requisite stockholder approval of any necessary amendment to this Amended and Restated Certificate of Incorporation.

(k) Notices. Any notice required by the provisions of this Section IV(B)(4) to be given to the holders of shares of Preferred Stock will be deemed given if deposited in the United States mail, postage prepaid, and (i) upon personal delivery to the party to be notified, (ii) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (iv) one (1) day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All notices shall be addressed to each holder of record at his address appearing on the books of this Corporation.

(l) Waiver of Adjustment to Conversion Price. Notwithstanding anything herein to the contrary, any downward adjustment of the Conversion Price of any series of Preferred Stock may be waived, either prospectively or retroactively and either generally or in a particular instance, by the consent or vote of the holders of at least sixty percent (60%) of the outstanding shares of such series of Preferred Stock. Any such waiver shall bind all future holders of shares of such series of Preferred Stock.

5. Voting Rights

(a) General. The holder of each share of Convertible Preferred Stock will have the right to one vote for each share of Common Stock into which such share of Convertible Preferred Stock could then be converted, and with respect to such vote, such holder will have full voting rights and powers equal to the voting rights and powers of the holders of Common Stock, and will be entitled, notwithstanding any provision hereof, to notice of any stockholders meeting in accordance with the Bylaws of this Corporation, and will be entitled to vote, together with holders of Common Stock, with respect to any matter upon which holders of Common Stock have the right to vote. Fractional votes will not, however, be permitted and any fractional voting rights available on an as-converted basis (after aggregating all shares into which shares of Convertible Preferred Stock held by each holder could be converted) will be rounded to the nearest whole number (with one-half being rounded upward).

(b) Election of Directors. So long as any shares of Preferred Stock remain outstanding,

(i) the holders of shares of Series A Preferred Stock are entitled, voting separately as a single class, to elect two (2) directors of this Corporation (the Series A Directors) at or pursuant to each vote or consent of this Corporation s stockholders for the election of directors;

(ii) the holders of shares of Common Stock are entitled, voting separately as a single class, to elect one (1) director of this Corporation at or pursuant to each vote or consent of this Corporation s stockholders for the election of directors; and

(iii) the holders of shares of Common Stock and Preferred Stock are entitled, voting together in accordance with Section IV(B)(5)(a) hereof, to elect the remaining director(s) of this Corporation at or pursuant to each vote or consent of the Corporation s stockholders for the election of directors.

(c) Notwithstanding the provisions of Section 223(a)(1) and 223(a)(2) of the General Corporation Law, any vacancy, including newly created directorships resulting from any increase in the authorized number of directors or amendment of this Restated Certificate of Incorporation, and vacancies created by removal or resignation of a director, may be filled by a majority of the directors then in office, though less than a quorum, or by a sole remaining director, and the directors so chosen shall hold office until the next annual election and until their successors are duly elected and shall qualify, unless sooner displaced; provided, however, that where such vacancy occurs among the directors elected by the holders of a class or series of stock, the holders of shares of such class or series may override the Board s action to fill such

vacancy by (i) voting for their own designee to fill such vacancy at a meeting of this Corporation's stockholders or (ii) written consent, if the consenting stockholders hold a sufficient number of shares to elect their designee at a meeting of the stockholders. Any director may be removed during his or her term of office, either with or without cause, by, and only by, the affirmative vote of the holders of the shares of the class or series of stock entitled to elect such director or directors, given either at a special meeting of such stockholders duly called for that purpose or pursuant to a written consent of stockholders, and any vacancy thereby created may be filled by a unanimous vote of the holders of that class or series of stock represented at the meeting or pursuant to written consent.

6. Protective Provisions

So long as any shares of Preferred Stock are outstanding, this Corporation will not (whether by amendment, merger, consolidation or otherwise) without first obtaining the approval (by vote or written consent, as provided by law) of the holders of at least sixty percent (60%) of the then outstanding shares of all series of Preferred Stock, voting together as a single class and not as separate series and on an as converted basis, with voting power determined as provided in Section IV(B)(5); provided, however, that a separate vote of a particular series of Preferred Stock shall be required with respect to any action which alters or changes the rights, preferences or privileges of such series materially and adversely in a manner different from the other series of Preferred Stock:

- (i) alter or change the rights, preferences or privileges of, or the qualifications, limitations or restrictions that provide for the benefit of, the shares of such series of Preferred Stock so as to adversely affect such shares;
- (ii) increase the authorized number of shares of Preferred Stock;
- (iii) authorize, create or issue, or obligate itself to issue, any other equity or non-equity security, including any such security convertible into or exercisable or exchangeable for any equity or non-equity security, having a preference over, or being on a parity with, the Series A Preferred Stock;
- (iv) increase or decrease the size of the Board of Directors of this Corporation;
- (v) consummate any Corporate Transaction;
- (vi) redeem or repurchase any shares of the Common Stock, except with respect to the Corporation's repurchase at cost of capital stock granted pursuant to a stock incentive plan or repurchase of capital stock pursuant to a right of first refusal;
- (vii) increase the number of shares reserved for issuance under, or adopt any, stock incentive, stock option or other equity plan except as otherwise approved by the Series A Directors;
- (viii) effect any reclassification or recapitalization of the Corporation's capital stock (other than repurchases of unvested stock at cost or exercises of the Corporation's rights of first refusal);

- (ix) amend this Corporation's Certificate of Incorporation or Bylaws;
- (x) incur indebtedness, in a single transaction or series of related transactions, in excess of \$500,000 in the aggregate; and
- (xi) enter into any agreement or commitment with respect to any of the foregoing.

7. Preemptive Rights

No stockholder of the Corporation shall have a right to purchase shares of capital stock of the Corporation sold or issued by the Corporation except to the extent that such a right may from time to time be set forth in a written agreement between the Corporation and a stockholder.

8. Status of Redeemed or Converted Stock

In the event any shares of Preferred Stock are converted pursuant to Section IV(B)(4), the shares so converted will be cancelled and will not be issuable by this Corporation. This Amended and Restated Certificate of Incorporation will be appropriately amended to effect the corresponding reduction in this Corporation's authorized capital stock.

C. Common Stock

The rights, preferences, privileges and restrictions granted to and imposed on the Common Stock are as set forth below in this Section IV(C).

1. Dividend Rights

Subject to the prior rights of holders of all classes of stock at the time outstanding having prior rights as to dividends, the holders of the Common Stock are entitled to receive, when and as declared by the Board of Directors, out of any assets of this Corporation legally available therefor, such dividends as may be declared from time to time by the Board of Directors.

2. Liquidation Rights

Upon the liquidation, dissolution or winding of this Corporation, the assets of this Corporation will be distributed as provided in Section IV(B)(2).

3. Redemption

The Common Stock is not redeemable at the option of the holder.

4. Voting Rights

The holder of each share of Common Stock has the right to one vote for each such share, and is entitled to notice of any stockholders' meeting in accordance with the Bylaws of this Corporation, and is entitled to vote upon such matters and in such manner as may be provided by law.

5. Changes to Authorized Common Stock.

The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority of the capital stock of the Corporation entitled to vote thereon without a vote of the holders of the Common Stock voting as a separate class, irrespective of the provisions of Section 242(b)(2) of the Delaware General Corporation Law.

ARTICLE V

Except as otherwise provided in this Amended and Restated Certificate of Incorporation, in furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized to make, alter, amend, rescind or repeal any or all of the Bylaws of this Corporation, provided, however, that the stockholders of this Corporation may change or repeal any Bylaw adopted by the Board of Directors by the affirmative vote of the percentage of holders of capital stock as provided therein; and, provided further, that no amendment or supplement to the Bylaws adopted by the Board of Directors shall vary or conflict with this Amended and Restated Certificate of Incorporation or any amendment or supplement thus adopted by the stockholders.

ARTICLE VI

The number of directors of this Corporation shall be determined as set forth in the Bylaws of this Corporation. Elections of directors need not be by written ballot unless the Bylaws of this Corporation so provide.

ARTICLE VII

A director of this Corporation shall to the fullest extent permitted by the General Corporation Law as it now exists or as it may hereafter be amended, not be personally liable to this Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to this Corporation or its stockholders, (ii) for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the General Corporation Law, or (iv) for any transaction from which the director derived any improper personal benefit. If the General Corporation Law is amended, after approval by the stockholders of this Article VII, to authorize any action by this Corporation which further eliminates or limits the personal liability of directors, then the liability of a director of this Corporation will be eliminated or limited to the fullest extent permitted by the General Corporation Law, as so amended, without further action of stockholders.

Any amendment, repeal or modification of this Article VII, or the adoption of any provision of this Amended and Restated Certificate of Incorporation inconsistent with this Article VII, shall not adversely affect any right or protection of a director of this Corporation existing at the time of such amendment, repeal, modification or adoption.

ARTICLE VIII

To the fullest extent permitted by the General Corporation Law, this Corporation may fully 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 such person is or was an employee, director or agent of the Corporation, or is or was serving at the request of this Corporation as an employee, director or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, against expenses (including attorneys fees), judgment, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding. This Corporation will advance expenses (including attorneys fees) incurred by a director or officer in advance of the final disposition of such action, suit or proceeding upon the receipt of an undertaking by or on behalf of the director or officer to repay such amount if it is ultimately determined that such director or officer is not entitled to indemnification. This Corporation may advance expenses (including attorneys fees) incurred by an employee or agent in advance of the final disposition of such action, suit or proceeding upon such terms and conditions, if any, as the Board of Directors deems appropriate.

Any amendment, repeal or modification of this Article VIII, or the adoption of any provision of this Amended and Restated Certificate of Incorporation inconsistent with this Article VIII, shall not adversely affect any right or protection existing at the time of such amendment, repeal, modification or adoption.

ARTICLE IX

Meetings of stockholders may be held within or without the State of Delaware, as the Bylaws may provide. The books of this Corporation may be kept (subject to any provision contained in the statutes) outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the Bylaws of this Corporation; provided, however, that the stockholders of this Corporation may change or repeal any Bylaw adopted by the Board of Directors by the affirmative vote of the percentage of holders of capital stock as provided therein; and, provided further, that no amendment or supplement to the Bylaws adopted by the Board of Directors shall vary or conflict with this Amended and Restated Certificate of Incorporation or any amendment or supplement thus adopted by the stockholders.


ARTICLE X

This Corporation will have perpetual existence.

IN WITNESS WHEREOF, this Corporation has caused this Amended and Restated Certificate of Incorporation to be executed on its behalf by a duly authorized officer, this 21st day of April, 2006.

3JAM, INC.

By:



Andy Jagoe
President