


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FILED 
in the office of the Secretary of State
of the State of California
APR 27 2006

**THIRD AMENDED AND RESTATED ARTICLES OF INCORPORATION
OF ASPECTRICS, INC.**

Paul H. Salsgiver, Jr. and Walter Harrower hereby certify that:

1. Paul H. Salsgiver, Jr. is the President and Walter Harrower is the Secretary, of Aspectrics, Inc., a California corporation.
2. The Second Amended and Restated Articles of Incorporation of the corporation, as amended to the date of the filing of this certificate, including amendments set forth herein but not separately filed (and with the omissions required by Section 910 of the California Corporations Code), are amended and restated in their entirety as set forth in Exhibit "1" attached hereto and made a part hereof by this reference.
3. The Third Amended and Restated Articles of Incorporation set forth herein have been duly approved by the Board of Directors of the corporation.
4. The Third Amended and Restated Articles of Incorporation set forth herein (other than omissions required by Section 910 of the Corporations Code) have been duly approved by the required vote of the shareholders of the corporation in accordance with Sections 902 and 903 of the California Corporations Code. The corporation has two classes of stock, Common Stock and Preferred Stock. The number of outstanding shares is Eleven Million Five Hundred Twenty Thousand Eight Hundred and Six (11,520,806) shares of Common Stock, Four Million (4,000,000) shares of Series A Preferred Stock and Twelve Million Four Hundred Eighty-Seven Thousand Seven Hundred Twenty-Nine (12,487,729) shares of Series B Preferred Stock. The Series A Preferred Stock and Series B Preferred Stock are collectively referred to as the "Preferred Stock." The number of shares of Common Stock voting in favor of the Third Amended and Restated Articles of Incorporation was 10,490,054. The number of shares of Series A Preferred Stock voting in favor of the Third Amended and Restated Articles of Incorporation was 4,000,000. The number of shares of Series B Preferred Stock voting in favor of the Third Amended and Restated Articles of Incorporation was 12,166,097. The number of shares voting in favor of the Third Amended and Restated Articles of Incorporation set forth herein equaled or exceeded the vote required. The percentage vote required was more than 50% of the outstanding shares of Common Stock and Preferred Stock voting together as authorized under Section 6.5.3 of the Second Amended and Restated Articles of Incorporation.

In addition, the number of shares of Series A preferred Stock voting in favor of the Third Amended and Restated Articles of Incorporation set forth therein equaled or exceeded the vote required. The percentage vote required was more than 50% of the outstanding shares of Series A Preferred Stock, as required by Corp. Code § 903, subdiv. (a) and (b).

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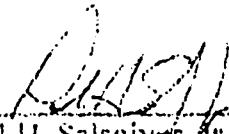
In addition, the number of shares of Series B Preferred Stock voting in favor of the Third Amended and Restated Articles of Incorporation set forth herein equaled or exceeded the vote required. The percentage vote required was more than 50% of the outstanding shares of Series B Preferred Stock, as set forth under Section 6.7.1 of the Second Amended and Restated Articles of Incorporation.

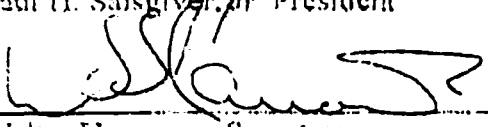
Finally, the number of shares of Preferred Stock voting in favor of the Third Amended and Restated Articles of Incorporation set forth herein equaled or exceeded the vote required. The percentage vote required was more than 50% of the outstanding shares of Preferred Stock voting together as set forth under Section 6.7 of the Second Amended and Restated Articles of Incorporation.

[Signature page to follow]

We further declare under penalty of perjury under the laws of the State of California that the matters set forth in this certificate are true and correct of my own knowledge.

Dated: April 25, 2006



Paul H. Salsgiver, Jr. President


Walter Harrower, Secretary

EXHIBIT "1"

**THIRD AMENDED AND RESTATED ARTICLES OF INCORPORATION
OF ASPECTRICS, INC.**

ARTICLE 1

The name of the corporation is Aspectrics, Inc.

ARTICLE 2

The purpose of the 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 company business or the practice of a profession permitted to be incorporated by the California Corporations Code.

ARTICLE 3

The liability of the directors of the corporation for monetary damages shall be eliminated to the fullest extent permissible under California law. Unless applicable law otherwise provides, any amendment, repeal or modification of this ARTICLE 3 shall not adversely affect any right or protection of a director under this ARTICLE 3 that existed at or prior to the time of such amendment, repeal or modification.

ARTICLE 4

The corporation is authorized to provide indemnification of agents (as defined in Section 317 of the California Corporations Code) through bylaw provisions, by 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 on such excess indemnification set forth in Section 204 of the California Corporations Code. Unless applicable law otherwise provides, any amendment, repeal or modification of any provision of this ARTICLE 4 shall not adversely affect any contract or other right to indemnification of an agent of the corporation that existed at or prior to the time of such amendment, repeal or modification.

ARTICLE 5

5.1 This corporation is authorized to issue two classes of shares, designated "Common Stock" and "Preferred Stock," respectively. The number of shares of Common Stock authorized to be issued is Seventy Million (70,000,000). The number of shares of Preferred

Stock authorized to be issued is Forty-Three Million and Thirty-Eight Thousand Seventy-One (43,038,071) shares of Preferred Stock.

5.2 Upon filing of these Third Amended and Restated Articles of Incorporation: (a) the existing shares of Series A Preferred Stock of the Company shall be immediately converted on a one-to-1.125 basis into shares of Series A-1 Preferred Stock; and (b) the existing shares of Series B Preferred Stock of the Company shall be immediately converted on a one-to-one basis into shares of Series A-2 Preferred Stock; and

5.3 Four Million Five Hundred Thousand (4,500,000) shares of Preferred Stock are designated as "Series A-1 Preferred Stock." Twelve Million Five Hundred Thirty-Eight Thousand Seventy-One (12,538,071) shares of Preferred Stock are designated as "Series A-2 Preferred Stock." Eighteen Million (18,000,000) shares of Preferred Stock are designated as "Series B-1 Preferred Stock" and Eight Million (8,000,000) shares of Preferred Stock are designated as "Series B-2 Preferred Stock" and unless the context requires otherwise the Series B-1 Preferred Stock and Series B-2 Preferred Stock shall be collectively referred to herein as the "Series B Preferred Stock."

ARTICLE 6

The rights, preferences, privileges and restrictions granted to and imposed on the Preferred Stock and the Common Stock are as follows:

6.1 **Definitions.** For purposes of this ARTICLE 6, the following additional definitions apply:

6.1.1 "**Board**" shall mean the Board of Directors of the Company.

6.1.2 "**Company**" shall mean this corporation.

6.1.3 "**Common Stock**" shall mean the Common Stock of the Company.

6.1.4 "**Dividend Rate**" shall mean \$0.03555 per share per annum with respect to the Series A-1 Preferred Stock, \$0.0286 per share per annum with respect to the Series A-2 Preferred Stock, \$0.0276 per share per annum with respect to the Series B-1 Preferred Stock and \$0.0286 per share per annum with respect to the Series B-2 Preferred Stock (each as adjusted for any stock splits, stock dividends, recapitalizations or the like).

6.1.5 "**Issue Dates**" shall mean the respective initial date(s) on which the shares of each series of Preferred Stock were issued by the Company; provided, however, all shares of Series B-2 Preferred Stock shall be deemed to have been issued on the initial date on which the shares of Series B-1 Preferred Stock were issued.

6.1.6 "**Original Issue Price**" shall mean \$0.444444 per share for the Series A-1 Preferred Stock, \$0.357551 per share for the Series A-2 Preferred Stock, \$0.34520 for the Series B-1 Preferred Stock and \$0.357551 per share for the Series B-2 Preferred Stock (each as adjusted for any stock splits, stock dividends, recapitalizations or the like), except as it relates to Section 6.6 hereof.

6.1.7 "*Preferred Stock*" shall mean the Series A-1 Preferred Stock, the Series A-2 Preferred Stock and the Series B Preferred Stock collectively.

6.1.8 "*Series A-1 Preferred Stock*" shall mean the Series A-1 Preferred Stock of the Company.

6.1.9 "*Series A-2 Preferred Stock*" shall mean the Series A-2 Preferred Stock of the Company.

6.1.10 "*Series B Preferred Stock*" shall mean the Series B-1 Preferred Stock and the Series B-2 Preferred Stock, collectively as a single class.

6.1.11 "*Series B-1 Preferred Stock*" shall mean the Series B-1 Preferred Stock of the Company.

6.1.12 "*Series B-2 Preferred Stock*" shall mean the Series B-2 Preferred Stock of the Company.

6.1.13 "*Subsidiary*" shall mean any corporation which is controlled by or under the common control of the Company.

6.1.14 "*Transfer of Control*" shall mean any transaction or series of transactions, other than equity financings, where persons other than the holders of the Company's capital stock prior to the transaction become the beneficial owners of capital stock of the Company or any parent thereof representing 50% or more of the voting power of the Company's or parent's, as applicable, capital stock after the transaction.

6.2 Dividend Rights.

6.2.1 **Preferred Stock Dividend Preference.** The holders of the then outstanding Preferred Stock shall be entitled to receive, when, as and if declared by the Board and subject to Section 6.7.5, out of any funds and assets of the Company legally available therefor, noncumulative cash dividends at the applicable annual Dividend Rate for such series of Preferred Stock, prior and in preference to the payment of any dividends on the Common Stock in such calendar year. No dividends shall be paid with respect to the Common Stock unless dividends in the total amount equal to all declared but unpaid dividends at the applicable Dividend Rate for each series of Preferred Stock shall have first been paid or set apart for payment to the holders of Preferred Stock, and no dividends shall be paid with respect to the Common Stock unless a dividend (including the amount of any dividends paid pursuant to the above provisions of this section) is paid with respect to all outstanding shares of Preferred Stock in an amount for each such share of Preferred Stock equal or greater than the aggregate amount of such dividends for all shares of Common Stock into which each such share of Preferred Stock could then be converted. Payments of any dividends to the holders of Preferred Stock shall be paid pro rata, on an equal priority basis, according to the dividend preference as set forth herein. The holders of the outstanding Preferred Stock may waive any dividend preference that such holders shall be entitled to receive under this Section 6.2.1 upon the affirmative vote or written consent of (i) the holders of at least a majority of the then outstanding Series A-1 Preferred Stock and Series A-2 Preferred Stock voting together as a single class, with respect to the dividends for

the Series A-1 Preferred Stock and Series A-2 Preferred Stock, and (ii) the holders of at least a majority of the then outstanding Series B-1 Preferred Stock and Series B-2 Preferred Stock, voting as a single class, with respect to the dividend for the Series B-1 Preferred Stock and Series B-2 Preferred Stock, and (iii) and a majority of the then outstanding Preferred Stock voting as a single class.

6.2.2 Non-Cash Dividends. In the event the Company shall declare a dividend (other than any dividend described in 6.2.1) payable in property other than cash, the value of such dividend shall be deemed to be the fair market value of such property as determined in good faith by the Board.

6.3 Liquidation Rights. In the event of any liquidation, dissolution or winding up of the Company, in a single transaction or series of related transactions, whether voluntary or involuntary, (a "*Liquidation Event*"), the aggregate funds and assets that may be legally distributed to all of the Company's shareholders prior to any distribution under this section (the "*Available Funds and Assets*") shall be distributed to shareholders in the following manner:

6.3.1 Series B Preferred Stock Liquidation Right.

(a) **Liquidation Event Under \$40,000,000.** In the event of any Liquidation Event where the Available Funds and Assets are valued at less than or equal to Forty Million Dollars (\$40,000,000), the holders of each share of Series B Preferred Stock then outstanding shall be entitled to be paid, out of the Available Funds and Assets, and prior and in preference to any payment or distribution (or any setting apart of any payment or distribution) of any Available Funds and Assets on any shares of Series A-1 Preferred Stock, Series A-2 Preferred Stock or Common Stock, an amount per share equal to two (2) times the applicable Original Issue Price for each such series, plus all declared but unpaid dividends thereon. If upon any Liquidation Event, the Available Funds and Assets shall be insufficient to permit the payment to holders of Series B Preferred Stock of their full preferential amounts described in this subsection, then the Available Funds and Assets shall be distributed ratably among the holders of the then outstanding Series B Preferred Stock in proportion to the full amounts to which they would otherwise be respectively entitled. If there are any Available Funds and Assets remaining after the payment or distribution (or the setting aside for payment or distribution) to the holders of Series B Preferred Stock of their full preferential amounts described in the first sentence of this subsection (a), then all such remaining Available Funds and Assets shall be distributed pursuant to Sections 6.3.2 and 6.3.3.

(b) **Liquidation Event Between \$40,000,000 and \$50,000,000.** In the event of any Liquidation Event where the Available Funds and Assets are valued at more than Forty Million Dollars (\$40,000,000) but less than Fifty Million Dollars (\$50,000,000), the holders of each share of Series B Preferred Stock then outstanding shall be entitled to be paid, out of the Available Funds and Assets, and prior and in preference to any payment or distribution (or any setting apart of any payment or distribution) of any Available Funds and Assets on any shares of Series A-1 Preferred Stock, Series A-2 Preferred Stock and Common Stock, an amount per share equal to the one and half (1.5) times the applicable Original Issue Price plus all declared but unpaid dividends thereon. If there are any Available Funds and Assets remaining after the payment or distribution (or the setting aside for payment or distribution) to the holders

of Series B Preferred Stock of their full preferential amounts described in the first sentence of this subsection (b), then all such remaining Available Funds and Assets shall be distributed pursuant to Sections 6.3.2 and 6.3.3.

(c) **Liquidation Event Between \$50,000,000 and \$60,000,000.** In the event of any Liquidation Event where the Available Funds and Assets are valued at Fifty Million Dollars (\$50,000,000) or more but less than Sixty Million Dollars (\$60,000,000), the holders of each share of Series B Preferred Stock then outstanding shall be entitled to be paid, out of the Available Funds and Assets, and prior and in preference to any payment or distribution (or any setting apart of any payment or distribution) of any Available Funds and Assets on any shares of Series A-1 Preferred Stock, Series A-2 Preferred Stock and Common Stock, an amount per share equal to the applicable Original Issue Price, plus all declared but unpaid dividends thereon. If there are any Available Funds and Assets remaining after the payment or distribution (or the setting aside for payment or distribution) to the holders of Series B Preferred Stock of their full preferential amounts described in the first sentence of this subsection (c), then all such remaining Available Funds and Assets shall be distributed pursuant to Sections 6.3.2 and 6.3.3.

(d) **Liquidation Event Above \$60,000,000.** In the event of any Liquidation Event where the Available Funds and Assets are valued at Sixty Million Dollars (\$60,000,000) or more, the holders of each share of Series B Preferred Stock then outstanding shall be entitled to be paid, out of the Available Funds and Assets, and prior and in preference to any payment or distribution (or any setting apart of any payment or distribution) of any Available Funds and Assets on any shares of Series A-1 Preferred Stock, Series A-2 Preferred Stock and Common Stock, an amount per share equal to the Applicable Original Issue Price, plus all declared but unpaid dividends thereon. If there are any Available Funds and Assets remaining after the payment or distribution (or the setting aside for payment or distribution) to the holders of Series B Preferred Stock of their full preferential amounts described in the first sentence of this subsection (d), then all such remaining Available Funds and Assets shall be distributed pursuant to Section 6.3.2.

6.3.2 Series A-1 Preferred Stock and Series A-2 Preferred Stock

Liquidation Right. After payment to the holders of the Series B Preferred Stock in accordance with Section 6.3.1, any remaining Available Funds and Assets shall be distributed to the holders of Series A-1 Preferred Stock and Series A-2 Preferred Stock on a pari passu basis in the following manner:

(a) **Liquidation Event Under \$25,000,000.** In the event of any Liquidation Event where the Available Funds and Assets are valued at less than or equal to Twenty-Five Million Dollars (\$25,000,000), the holders of each share of Series A-1 Preferred Stock and Series A-2 Preferred Stock then outstanding shall be entitled to be paid, out of the Available Funds and Assets, and prior and in preference to any payment or distribution (or any setting apart of any payment or distribution) of any Available Funds and Assets on any shares of Common Stock, an amount per share equal to two (2) times the applicable Original Issue Price, plus all declared but unpaid dividends thereon. If upon any Liquidation Event, the remaining Available Funds and Assets shall be insufficient to permit the payment to holders of Series A-1 Preferred Stock and Series A-2 Preferred Stock of their full preferential amounts described in this subsection, then the Available Funds and Assets shall be distributed ratably among the

holders of the then outstanding Series A-1 Preferred Stock and Series A-2 Preferred Stock in proportion to the full amounts to which they would otherwise be respectively entitled. If there are any Available Funds and Assets remaining after the payment or distribution (or the setting aside for payment or distribution) to the holders of Series A-1 Preferred Stock and Series A-2 Preferred Stock of their full preferential amounts described in the first sentence of this subsection (a), then all such remaining Available Funds and Assets shall be distributed pursuant to Section 6.3.3.

(b) **Liquidation Event Between \$25,000,000 and \$60,000,000.** In the event of any Liquidation Event where the Available Funds and Assets are valued at more than Twenty-Five Million Dollars (\$25,000,000) but less than Sixty Million Dollars (\$60,000,000), the holders of each share of Series A-1 Preferred Stock and Series A-2 Preferred Stock then outstanding shall be entitled to be paid, out of the remaining Available Funds and Assets, and prior and in preference to any payment or distribution (or any setting apart of any payment or distribution) of any Available Funds and Assets on any shares of Common Stock, an amount per share equal to the applicable Original Issue Price, plus all declared but unpaid dividends thereon. If upon any Liquidation Event, the remaining Available Funds and Assets shall be insufficient to permit the payment to holders of Series A-1 Preferred Stock and Series A-2 Preferred Stock of their full preferential amounts described in this subsection, then the Available Funds and Assets shall be distributed ratably among the holders of the then outstanding Series A-1 Preferred Stock and Series A-2 Preferred Stock in proportion to the full amounts to which they would otherwise be respectively entitled. If there are any Available Funds and Assets remaining after the payment or distribution (or the setting aside for payment or distribution) to the holders of Series A-1 Preferred Stock and Series A-2 Preferred Stock of their full preferential amounts described in the first sentence of this subsection (b), then all such remaining Available Funds and Assets shall be distributed pursuant to Section 6.3.3.

(c) **Liquidation Event Above \$60,000,000.** In the event of any Liquidation Event where the Available Funds and Assets are valued at more than or equal to Sixty Million Dollars (\$60,000,000), the holders of each share of Series A-1 Preferred Stock and Series A-2 Preferred Stock then outstanding shall be entitled to be paid, out of the Available Funds and Assets, and prior and in preference to any payment or distribution (or any setting apart of any payment or distribution) of any Available Funds and Assets on any shares of Common Stock, an amount per share equal to the applicable Original Issue Price, plus all declared but unpaid dividends thereon. If upon any liquidation, dissolution or winding up of the Company, the Available Funds and Assets shall be insufficient to permit the payment to holders of Series A-1 Preferred Stock and Series A-2 Preferred Stock of their full preferential amounts described in this subsection, then the Available Funds and Assets shall be distributed ratably among the holders of the then outstanding Series A-1 Preferred Stock and Series A-2 Preferred Stock in proportion to the full amounts to which they would otherwise be respectively entitled. If there are any Available Funds and Assets remaining after the payment or distribution (or the setting aside for payment or distribution) to the holders of Series A-1 Preferred Stock and Series A-2 Preferred Stock of their full preferential amounts described in the first sentence of this subsection (c), then all such remaining Available Funds and Assets shall be distributed pursuant to Section 6.3.3(b).

6.3.3 Participation Rights; Distribution to Common Stock Shareholders.

(a) **Liquidation Event Less Than \$60,000,000.** If following the distributions to the holders of Preferred Stock pursuant to Sections 6.3.1 and 6.3.2(a) and (b), there remains any Available Funds and Assets, then such Available Funds and Assets shall be distributed among the holders of the then outstanding Common Stock and Preferred Stock pro rata according to the number of shares of Common Stock held by such holders, where, for this purpose, holders of shares of Preferred Stock will be deemed to hold (in lieu of their Preferred Stock) the greatest whole number of shares of Common Stock then issuable upon conversion in full of such shares of Preferred Stock pursuant to Section 6.6.

(b) **Liquidation Event at \$60,000,000 or More.** If following the distributions to the holders of Preferred Stock pursuant to Sections 6.3.1 and 6.3.2(c), there remains any Available Funds and Assets, then such Available Funds and Assets shall be distributed among the holders of the then outstanding Common Stock pro rata according to the number of shares of Common Stock held by such holders.

6.3.4 Deemed Liquidation Event. For purposes of the liquidation rights described herein, a "Liquidation Event" shall also be deemed to include any: (i) transaction or series of related transactions involving the sale or conveyance by the Company of all or substantially all of its assets, (ii) sale or exclusive license of all or substantially all of the Company's intellectual property, (iii) recapitalization, reclassification, consolidation or merger of the Company with or acquisition of the Company by another entity which involves a Transfer of Control, or (iv) other transaction or series of related transactions involving or resulting in a Transfer of Control; provided, further, the foregoing clauses (i) through (iv) shall apply to any wholly-owned subsidiary of the Company that constitutes more than thirty percent (30%) of the Company's total assets or total revenues.

6.3.5 Non-Cash Consideration. If any assets of the Company distributed to shareholders in connection with any Liquidation Event are other than cash, then the value of such assets shall be their fair market value as determined in good faith by the unanimous approval of the Board, except that any securities to be distributed to shareholders in a Liquidation Event shall be valued as follows:

(a) The method of valuation of securities not subject to investment letter or other similar restrictions on free marketability shall be as follows:

(i) if the securities are then traded on a national securities exchange or the Nasdaq National Market System (or a similar national quotation system or exchange), then the value shall be deemed to be the average of the closing prices of the securities on such exchange or system over the 30-day period ending three (3) days prior to the distribution; and

(ii) if actively traded over-the-counter, then 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 distribution; and

(iii) if there is no active public market, then the value shall be the fair market value thereof, as determined in good faith by the unanimous approval of the Board.

(b) 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 subparagraphs (i), (ii) or (iii) of this subsection to reflect the approximate fair market value thereof, as determined (i) in good faith by the unanimous approval of the Board and (ii) by holders of a majority of the shares of Preferred Stock, voting on an as-converted basis.

6.4 Redemption. The shares of Preferred Stock shall be redeemable as follows:

6.4.1 No Call. The Company shall not have the right to call for redemption of all or any part of the Preferred Stock.

6.4.2 Required Redemption at Option of Shareholders. Beginning at any time after December 31, 2009, upon receiving written request from the holders of (i) a majority of the Series B Preferred Stock, voting together as a single class, and (ii) a majority of the Series A-1 Preferred Stock and Series A-2 Preferred Stock, voting together as a single class, the Company shall redeem all, but not less than all, of the outstanding shares of Preferred Stock on a pro-rata basis. The redemption price for each redeemed share shall be the applicable Original Issue Price, plus ten percent (10%) of such amount, compounded per annum from the Issue Date of the Series B-1 Preferred Stock, plus any declared but unpaid dividends thereon.

6.4.3 Notice of Redemption. Upon receiving a notice requesting redemption pursuant to Section 6.4.2, the Company shall, within ten (10) days, mail a written notice (a "*Redemption Notice*"), postage prepaid, to each holder of Preferred Stock of the Company and shall forward a copy of the Redemption Notice to each such holder. The Redemption Notice shall state that a redemption pursuant to this Section 6.4 has been requested and shall specify the date such redemption shall begin, which date shall be no more than thirty (30) days after the Company receives the redemption request (the "*Redemption Date*"). No defect in the Redemption Notice or any response thereto or in the mailing or publication thereof shall affect the validity of the redemption proceeding with respect to the Company or any holder of Preferred Stock, provided, that, the Company or such holder has timely received actual notice of the redemption.

6.4.4 Surrender of Stock. On or after the Redemption Date each such holder of Preferred Stock who requests redemption pursuant to Section 6.4.2 or Section 6.4.3 shall, subject to Section 6.4.2, surrender the certificate or certificates evidencing such holder's Preferred Stock, as applicable, to the Company at any place designated for such surrender in the Redemption Notice and shall then be entitled to receive payment in cash, by wire transfer or check, of the applicable redemption price for each share of Preferred Stock so redeemed.

6.4.5 Insufficient Redemption. If less than all of the shares represented by a share certificate are redeemed, the Company shall issue a new certificate representing the shares not redeemed.

6.4.6 Failure to Redeem. If the Company shall fail to discharge its obligation to redeem shares of Preferred Stock pursuant to this Section 6.4 (the "*Redemption Obligation*"), the Redemption Obligation shall be discharged, pro rata with respect to each holder of Preferred Stock then entitled to be redeemed based on the number of shares held, as set forth in Section 6.4.7, as soon as the Company is permitted by law to discharge such Redemption Obligation. If and so long as any Redemption Obligation shall not be fully discharged, the Company shall not, directly or indirectly, declare or pay any dividend or make any distribution on, or purchase, redeem or satisfy any mandatory redemption, sinking fund or other similar obligation in respect of, any other securities of the Company.

6.4.7 Status of Redeemed Shares. Except as provided below, from and after the close of business on a Redemption Date, all rights of holders of shares of Preferred Stock (except the right to receive the redemption price) shall cease with respect to the shares to be redeemed on such Redemption Date, and such shares shall not thereafter be transferred on the books of the Company or be deemed to be outstanding for any purpose whatsoever. If the funds of the Company legally available for redemption of shares of Preferred Stock on the Redemption Date are insufficient to redeem the total number of shares of Preferred Stock to be redeemed on such Redemption Date, the holders of such shares shall share ratably in any funds legally available for redemption of such shares according to the respective amounts which would be payable to them if the full number of shares to be redeemed on such Redemption Date were actually redeemed. The shares of Preferred Stock required to be redeemed but not so redeemed shall remain outstanding and entitled to all rights and preferences provided herein. At any time thereafter when additional funds of the Company are legally available for the redemption of such shares of Preferred Stock, such funds will be promptly used to redeem the balance of such shares, or such portion thereof for which funds are then legally available, on the basis set forth above.

6.4.8 Payment of Redemption Price. On or prior to the Redemption Date, the Company shall deposit the redemption price of all shares of such shares of Preferred Stock designated for redemption in the Redemption Notice and not yet redeemed with a bank or trust company in New York, New York having aggregate capital and surplus in excess of one hundred million dollars (\$100,000,000) as a trust fund for the benefit of the respective holders of the shares designated for redemption and not yet redeemed, with irrevocable instructions and authority to the bank or trust company to pay the redemption price for such shares to their respective holders on or after the Redemption Date upon receipt of notification from the corporation that such holder has surrendered his or her share certificate to the Company pursuant to Section 6.4.4. Such instructions shall also provide that any funds deposited by the Company pursuant to this Section 6.4.8 for the redemption of shares subsequently converted into shares of Common Stock pursuant to the terms hereof no later than the fifth (5th) day preceding the Redemption Date shall be returned to the Company forthwith upon such conversion. The balance of any funds deposited by the Company pursuant to this Section 6.4.8 remaining unclaimed at the expiration of one (1) year following the Redemption Date shall be returned to the Company and thereafter the holders of shares called for redemption who have not claimed such funds shall be entitled to receive payment of the redemption price only from the Company.

6.4.9 No Reissuance of Preferred Stock. No share or shares of Preferred Stock acquired by the Company by reason of redemption, purchase, conversion or otherwise shall be reissued.

6.5 Voting Rights.

6.5.1 Common Stock. Each holder of shares of Common Stock shall be entitled to one (1) vote for each share thereof held.

6.5.2 Preferred Stock. Each holder of shares of Preferred Stock shall be entitled to the number of votes equal to the number of whole shares of Common Stock into which such shares of Preferred Stock could be converted (with one half being rounded upwards to one) pursuant to the provisions of Section 6.6 below at the record date for the determination of the shareholders entitled to vote on such matters or, if no such record date is established, the date such vote is taken or any written consent of shareholders is solicited.

6.5.3 General. Subject to the foregoing provisions of this Section 6.5, each holder of Preferred Stock shall have full voting rights and powers equal to the voting rights and powers of the holders of Common Stock, and shall be entitled to notice of any shareholders' meeting in accordance with the Bylaws of the Company, as may be amended from time to time (as in effect at the time in question) and applicable law, and shall be entitled to vote, together with the holders of Common Stock, with respect to any question upon which holders of Common Stock have the right to vote, except as may be otherwise provided by applicable law. Except as otherwise expressly provided herein or as required by law, the holders of Preferred Stock and Common Stock shall vote together and not as separate classes.

6.5.4 Board of Directors Election. The number of the Board shall be set at five (5) directors and shall not be increased or decreased without the consent of the holders of a majority of the outstanding shares of Series B Preferred Stock.

(a) **Series A-2 Preferred Stock.** So long as at least 1,000,000 shares of Series A-2 Preferred Stock are outstanding (as adjusted for any stock splits, stock dividends, recapitalization or the like), the holders of the Series A-2 Preferred Stock, voting as a separate series, shall be entitled to elect one (1) director of the Company.

(b) **Series B Preferred Stock.** So long as at least 1,000,000 shares of Series B Preferred Stock are outstanding (as adjusted for any stock splits, stock dividends, recapitalization or the like), the holders of the Series B Preferred Stock, voting as a separate series, shall be entitled to elect one (1) director of the Company.

(c) **Common Stock.** The holders of the Common Stock, voting as a separate class, shall be entitled to one (1) director of the Company.

(d) **Remaining Directors.** Any remaining directors shall be elected by the Preferred Stock and the Common Stock, voting together as a single class on an as converted to Common Stock basis.

6.6 Conversion Rights. For all purposes of this Section 6.6 the term "Original Issue Price" for any share of Series A-1 Preferred Stock, Series A-2 Preferred Stock, or Series B Preferred Stock then outstanding shall be deemed to be set at \$0.34520. The outstanding shares of Preferred Stock shall be convertible into Common Stock as follows:

6.6.1 Conversion.

(a) **Optional.** At the option of the holder thereof, each share of Preferred Stock shall be convertible, at any time or from time to time, into fully paid and nonassessable shares of Common Stock as provided herein.

(b) **Automatic.**

(i) Each share of Preferred Stock shall automatically be converted into fully paid and nonassessable shares of Common Stock, as provided herein, (i) immediately prior to the closing of a firm commitment underwritten public offering pursuant to an effective registration statement filed under the Securities Act of 1933, as amended (the "Act") (including a registration relating solely to a transaction under Rule 145 under the Act (or any successor thereto), or relating to an employee benefit plan of the Company), covering the offer and sale of Common Stock at a per share offering price equaling or exceeding \$3.50 per share (as adjusted for any stock splits, stock dividends, recapitalization or the like) for the account of the Company in which the aggregate public offering price (after deduction for underwriters' discounts and expenses relating to the issuance, including without limitation fees of the Company's counsel) exceeds \$20,000,000 (a "*Qualified IPO*"), or (ii) on the date specified by written consent or agreement of the holders of (X) a majority of the then outstanding shares of Series A-1 Preferred Stock and Series A-2 Preferred Stock, voting together as a single class, and (Y) a majority of the outstanding shares of Series B Preferred Stock, voting together as a separate class.

(ii) Upon the occurrence of any event specified in subparagraph (b) above, the outstanding shares of the applicable series of Preferred Stock shall be converted into Common Stock automatically without the need for any further action by the holders of such shares and whether or not the certificates representing such shares are surrendered to the Company or its transfer agent; provided, however, that the Company shall not be obligated to issue certificates evidencing the shares of Common Stock issuable upon such conversion unless the certificates evidencing such shares of Preferred Stock are either delivered to the Company or its transfer agent as provided below, or the holder notifies the Company or its transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement reasonably satisfactory to the Company to indemnify the Company from any loss incurred by it in connection with such certificates. Upon the occurrence of such automatic conversion of the Preferred Stock, the holders of Preferred Stock shall surrender the certificates representing such shares at the office of the Company or any transfer agent for the Preferred Stock or Common Stock. 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 shares of Preferred Stock, as applicable, surrendered were convertible on the date on which such automatic conversion occurred.

(c) Each holder of Preferred Stock whose Preferred Stock will be converted into shares of Common Stock pursuant to this section will surrender the certificate or certificates therefor, duly endorsed, at the office of the Company or any transfer agent for the Preferred Stock or Common Stock, and shall give written notice to the Company at such office that such holder elects to convert the same and shall state therein the number of shares of Preferred Stock being converted. Thereupon the Company shall promptly 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 upon such conversion. 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 of Preferred Stock, or immediately prior to the closing of the Qualified IPO if converted under Section 6.6.1(b)(i), as the case may be, 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.

6.6.2 Conversion Price. Each share of Preferred Stock shall be convertible in accordance with subsection 6.6.1 or subsection 6.6.1(b) above into the number of shares of Common Stock which results from dividing the applicable Original Issue Price for such series of Preferred Stock by the conversion price for the such series of Preferred Stock that is in effect at the time of conversion (the "*Conversion Price*"). The initial Conversion Price for the conversion of the Preferred Stock in accordance with subsection 6.6.1 or subsection 6.6.1(b) above shall be the applicable Original Issue Price for such series of Preferred Stock.

6.6.3 Adjustment Upon Common Stock Event. Upon the happening of a Common Stock Event (as hereinafter defined), the Conversion Price of the Preferred Stock shall, simultaneously with the happening of such Common Stock Event, be adjusted by multiplying the Conversion Price of such series of Preferred Stock in effect immediately prior to such Common Stock Event by a fraction, (i) the numerator of which shall be the number of shares of Common Stock issued and outstanding immediately prior to such Common Stock Event, and (ii) the denominator of which shall be the number of shares of Common Stock issued and outstanding immediately after such Common Stock Event, and the product so obtained shall thereafter be the Conversion Price for such series of Preferred Stock. The Conversion Price for Preferred Stock shall be readjusted in the same manner upon the happening of each subsequent Common Stock Event. As used herein, the term "*Common Stock Event*" shall mean (i) the issue by the Company of additional shares of Common Stock as a dividend or other distribution on outstanding Common Stock, (ii) a subdivision of the outstanding shares of Common Stock into a greater number of shares of Common Stock, or (iii) a combination of the outstanding shares of Common Stock into a smaller number of shares of Common Stock.

6.6.4 Adjustments for Other Dividends and Distributions. If at any time or from time to time the Company pays a dividend or makes another distribution to the holders of the Common Stock payable in securities of the Company other than shares of Common Stock, then in each such event provision shall be made so that the holders of the Preferred Stock shall receive upon conversion thereof, in addition to the number of shares of Common Stock receivable upon conversion thereof, the amount of securities of the Company which they would have received had their Preferred Stock, respectively, been converted into Common Stock on the date of such event (or such record date, as applicable) and had they thereafter, during the period

from the date of such event (or such record date, as applicable) to and including the conversion date, retained such securities receivable by them as aforesaid during such period, subject to all other adjustments called for during such period under this Section 6.6 with respect to the rights of the holders of the Preferred Stock, or with respect to such other securities by the terms.

6.6.5 Adjustment for Reclassification, Exchange and Substitution. If at any time or from time to time the Common Stock issuable upon the conversion of the Preferred Stock is changed into the same or a different number of shares of any class or classes of stock, whether by recapitalization, reclassification or otherwise (other than by a Common Stock Event or a stock dividend, reorganization, merger, consolidation or sale of assets provided for elsewhere), then in any such event each holder of Preferred Stock shall have the right thereafter to convert such stock into the kind and amount of stock and other securities and property receivable upon such recapitalization, reclassification or other change by holders of the number of shares of Common Stock into which such shares of Preferred Stock, respectively, could have been converted immediately prior to such recapitalization, reclassification or change, all subject to further adjustment as provided herein or with respect to such other securities or property by the terms thereof. In any such case, appropriate adjustment shall be made in the application of this Section 6.6 with respect to the rights of the holders of the Preferred Stock after any recapitalization, reclassification and the like, to the end that this Section 6.6 (including adjustment of the applicable Conversion Price then in effect and the number of shares issuable upon conversion of the Preferred Stock) shall be applicable after that event or nearly equivalent as may be practicable.

6.6.6 Sale of Shares Below Conversion Price. The Conversion Price of the Preferred Stock shall be subject to adjustment from time to time as provided below.

(a) **Certain Definitions.** For the purpose of making any adjustment required under this subsection 6.6.6:

(i) **"Additional Shares of Common Stock"** shall mean all shares of capital stock issued by the Company, whether or not subsequently reacquired or retired by the Company, other than shares of Common Stock issued or issuable:

(A) upon conversion of the outstanding shares of Preferred Stock;

(B) upon exercise of Rights or Options (as such terms are defined in Section 6.6.6(a)(vi)) outstanding on the date of filing of these Third Amended and Restated Articles;

(C) up to 7,000,000 shares of Common Stock (and for purposes of calculating the 7,000,000 shares, any shares repurchased by the Company or any cancelled or terminated options shall again be available for issuance), as adjusted for any stock splits, stock dividends, recapitalizations or the like, that are issuable to officers, directors or employees of, or consultants to,

the Company pursuant to such arrangements, contracts or plans approved by a majority of the Board;

(D) provided that the shares in subsection (C) above have been exhausted, shares of Common Stock in excess of 7,000,000 shares of Common Stock pursuant to (C) above, to officers, directors, or employees of, or consultants to, the Company pursuant to a stock grant, option plan or purchase plan or other stock incentive program or agreement approved unanimously by the Board;

(E) to banks, equipment lessors or other financial institutions, real property lessors or suppliers, pursuant to a debt financing, equipment leasing, real property leasing transaction, all as approved unanimously by the Board;

(F) pursuant to acquisitions, licenses, joint ventures or transactions with strategic partners which are for primarily non-financing purposes and approved unanimously by the Board;

(G) issued in a transaction in which the Effective Price (as defined in Section 6.6.6(a)(v) of such shares is less than the Original Issue Price of the Series B-1 Preferred Stock pursuant to which a 66.67% of the Preferred Stock, voting together as a single class, expressly deem in writing that such shares not to be "Additional Shares of Common Stock;" and

(H) up to 25,537,327 shares of Series B Preferred Stock.

For the purpose of adjusting the Conversion Price, the grant, issue or sale of Additional Shares of Common Stock consisting of the substantially same class of security or warrants to purchase such security issued or deemed to be issued at the substantially same price at two or more closing held within a three (3) month period shall be aggregated and shall be treated as one sale of Additional Shares of Common Stock occurring on the earliest date on which such securities were issued or deemed to be issued.

(ii) "Aggregate Consideration Received" by the Company for any issue or sale (or deemed issue or sale) of securities shall (A) to the extent it consists of cash, be computed at the gross amount of cash received by the Company before deduction of any underwriting or similar commissions, compensation or concessions paid or allowed by the Company in connection with such issue or sale and without deduction of any expenses payable by the Company; (B) to the extent it consists of property other than cash, be computed at the fair value of that property as determined in good faith, by the Board; and (C) if Additional Shares of Common Stock, Convertible Securities (as defined in Section 6.6.6(a)(iv) or Rights or Options to purchase either Additional Shares of Common Stock or Convertible Securities Rights or Options are issued or sold together with other stock or securities or other assets of the Company for a consideration which covers both, be computed as the portion of the consideration so received

that may be reasonably determined in good faith, by the Board, to be allocable to such Additional Shares of Common Stock, Convertible Securities or Rights or Options.

(iii) *“Common Stock Equivalents Outstanding”* shall mean the number of shares of Common Stock that is equal to the sum of (A) all shares of Common Stock of the Company that are outstanding at the time in question, plus (B) all shares of Common Stock of the Company issuable upon conversion of all shares of Preferred Stock or other Convertible Securities that are outstanding at the time in question, plus (C) all shares of Common Stock of the Company that are issuable upon the exercise of Rights or Options that are outstanding at the time in question assuming the full conversion or exchange into Common Stock of all such Rights or Options that are Rights or Options to purchase or acquire Convertible Securities into or for Common Stock.

(iv) “*Convertible Securities*” shall mean stock or other securities convertible into or exchangeable for shares of Common Stock.

(v) *“Effective Price”* of Additional Shares of Common Stock shall mean the quotient determined by dividing the total number of Additional Shares of Common Stock issued or sold, or deemed to have been issued or sold, by the Company under this subsection 6.6.6, into the Aggregate Consideration Received, or deemed to have been received, by the Company under this subsection 6.6.6, for the issue of such Additional Shares of Common Stock.

(vi) ***"Rights or Options"*** shall mean warrants, options or other rights to purchase or acquire shares of Common Stock or Convertible Securities.

(b) **Adjustment Formula.** If at any time or from time to time after the Series B-1 Preferred Stock Issue Date, the Company issues or sells, or is deemed by the provisions of this subsection 6.6.6 to have issued or sold, Additional Shares of Common Stock (as defined above), otherwise than in connection with a Common Stock Event as provided in subsection 6.6.3, a dividend or distribution as provided in subsection 6.6.4, or a recapitalization, reclassification or other change as provided in subsection 6.6.5. for an Effective Price that is less than the Conversion Price for a series of Preferred Stock in effect immediately prior to such issue or sale (or deemed issuance or sale), then, and in each such case, the Conversion Price for such series of Preferred Stock shall be reduced, as of the close of business on the date of such issue or sale, to the price obtained by multiplying such Conversion Price by a fraction:

(i) The numerator of which shall be the sum of (A) the number of Common Stock Equivalents Outstanding immediately prior to such issue or sale of Additional Shares of Common Stock plus (B) the quotient obtained by dividing (X) the Aggregate Consideration Received by the Company for the total number of Additional Shares of Common Stock so issued or sold (or deemed so issued and sold) by (Y) the Conversion Price for such series of Preferred Stock in effect immediately prior to such issuance or sale (or deemed issuance or sale); and

(ii) The denominator of which shall be the sum of (A) the number of Common Stock Equivalents Outstanding immediately prior to such issue or sale plus

6.6.10 Notices. All notices required or permitted under these Third Amended and Restated Articles of Incorporation, as amended from time to time, to be given to the holders of shares of the Preferred Stock shall be deemed effectively given (as addressed to each holder of record at the address of such holder appearing on the books of the Company): (i) upon personal delivery to the holder, (ii) when sent by confirmed facsimile if sent during normal business hours of the recipient; if not, then on the next business day, (iii) 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.

6.6.11 No Impairment. Unless approved by the necessary vote in Section 6.7 below or as otherwise required by applicable law, the Company shall not by amendment of its Third Amended and Restated Articles 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 the Company, but shall at all times in good faith assist in the carrying out of all of the provisions of this Section 6.6 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.

6.7 Preferred Stock Protective Provisions. The Company shall not (by reorganization, recapitalization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action or otherwise), undertake any of the actions described in Section 6.7.1 through 6.7.12, inclusive, without the approval, by vote or written consent of: (i) the holders of a majority of the Series B Preferred Stock then outstanding, voting together as a single class, and (ii) so long as at least ten percent (10%) of shares of Series A-1 Preferred Stock and Series A-2 Preferred Stock that were issued and outstanding on the date of the filing of these Third Amended and Restated Articles of Incorporation remain outstanding, the holders of a majority of the Series A-1 Preferred Stock and Series A-2 Preferred Stock then outstanding, voting together as a single class, unless such action affects only one of the Series A-1 Preferred Stock or Series A-2 Preferred Stock series in which case, without the approval, by the vote or written consent, of the holders of a majority of the affected series of Series A-1 Preferred Stock or Series A-2 Preferred Stock, voting as a separate series:

6.7.1 amend, repeal or add any provisions to its Restated Articles of Incorporation or Bylaws in any manner, or take any other action, that would alter or change the rights, preferences and privileges of the Preferred Stock or such series of Preferred Stock, as the case may be;

6.7.2 reclassify any outstanding shares of Common Stock of the Company into shares having rights, preferences or privileges senior to or on a parity with the Preferred Stock or such series of Preferred Stock, as the case may be;

6.7.3 authorize or issue shares of any class or series having preference or priority equal to or superior to the Preferred Stock or such series of Preferred Stock, as the case may be;

6.7.4 engage in an transaction or series of transactions which may result in a Liquidation Event;

6.7.5 declare or pay any dividends (other than dividends payable solely in shares of its own Common Stock to an outstanding shares) on account of any shares of stock now or hereafter outstanding;

6.7.6 increase the number of shares under any employee stock option plan, other plan, contract, agreement or arrangement;

6.7.7 enter into or form any partnership, joint venture or acquire any shares in any other entity, other than in the ordinary course of business as approved by the Board;

6.7.8 commence any proceedings for the voluntary winding up, liquidation or dissolution of the Company;

6.7.9 effect any recapitalization of the Company;

6.7.10 change the number of members of the Company's Board;

6.7.11 issue any shares of Series B Preferred Stock, except those authorized for sale under the Series B-1 and B-2 Preferred Stock Purchase Agreement dated on or about April 27, 2006 or

6.7.12 redeem, purchase, acquire, retire, modify or amend (or pay into or set aside for a sinking fund for such purpose) the terms of any debt or equity securities or derivative securities of the Company or any subsidiary, other than (i) in accordance with the terms of such securities or pursuant to agreements in effect at the Series B-1 Preferred Stock Issue Date, (ii) the repurchase from employees, consultants, officers or directors approved by all disinterested members of the Board, or (iii) the repurchase by the Company of shares of Common Stock held by employees, officers, directors, consultants, independent contractors, advisors, or other persons performing services for the Company or a subsidiary that are subject to restricted stock purchase agreements or stock option exercise agreements under which the Company has the option to repurchase such shares: (A) at cost, upon the occurrence of certain events, such as the termination of employment or services; or (B) at any price pursuant to the Company's exercise of a right of first refusal to repurchase such shares.

6.8 Consent to Certain Transactions. Each holder of shares of Preferred Stock shall, by virtue of its acceptance of a stock certificate evidencing Preferred Stock, be deemed to have consented, for purposes of Sections 502 and 503 of the California Corporations Code, to all repurchases of stock junior to the Preferred Stock permitted pursuant to Section 6.7.12(i)-(iii).