

APR 02 2008

2218520

AMENDED AND RESTATED ARTICLES OF INCORPORATION
OF ARENA SOLUTIONS, INC.,
a California corporation

The undersigned, Craig Livingston and Eric Larkin, hereby certify that:

ONE: They are the duly elected and acting President and Secretary, respectively, of Arena Solutions, Inc., a California corporation (the "Corporation").

TWO: The Articles of Incorporation of said corporation shall be amended and restated to read in full as follows:

ARTICLE I

The name of the Corporation is Arena Solutions, Inc.

ARTICLE II

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 III

A. Classes of Stock. The Corporation is authorized to issue two classes of stock to be designated, respectively, "Common Stock" and "Preferred Stock." The total number of shares which the Corporation is authorized to issue is 255,494,748 shares. The number of shares of Common Stock authorized to be issued is 136,810,972 shares. The number of shares of Preferred Stock authorized to be issued is 118,683,776 shares, 829,545 of which shall be designated Series A Preferred Stock (the "Series A Preferred Stock"), 4,794,616 of which shall be designated Series B Preferred Stock ("Series B Preferred Stock"), 8,576,341 of which shall be designated Series C Preferred Stock ("Series C Preferred Stock"), 12,893,380 of which shall be designated Series D Preferred Stock ("Series D Preferred Stock"), 19,589,894 of which shall be designated Series E Preferred Stock ("Series E Preferred Stock") and 72,000,000 of which shall be designated Series F Preferred Stock ("Series F Preferred Stock"). The Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred and Series F Preferred Stock are hereinafter collectively referred to as the "Series Preferred."

B. Rights, Preferences and Restrictions of Series Preferred. The rights, preferences, restrictions and other matters relating to the Series Preferred are as follows:

1. Dividend Provisions. (a) Subject to the rights of any series of Preferred Stock that may from time to time come into existence, the holders of shares of Series Preferred shall be entitled to receive, on an equal priority, pari passu basis, dividends, out of any assets legally available therefor, in the amount of \$0.0352 per share per annum with respect to the Series A Preferred Stock, as adjusted for any stock dividends, combinations or splits with respect

to such shares; \$0.073 per share per annum with respect to the Series B Preferred Stock, as adjusted for any stock dividends, combinations or splits with respect to such shares; \$0.0472 per share per annum with respect to the Series C Preferred Stock, as adjusted for any stock dividends, combinations or splits with respect to such shares; \$0.0344 per share per annum with respect to the Series D Preferred Stock, as adjusted for any stock dividends, combinations or splits with respect to such shares; \$0.06616 per share per annum with respect to the Series E Preferred Stock, as adjusted for any stock dividends, combinations or splits with respect to such shares; and \$0.0176 per share per annum with respect to the Series F Preferred Stock, as adjusted for any stock dividends, combinations or splits with respect to such shares; in each case payable when, as and if declared by the Corporation's Board of Directors. Such dividends shall not be cumulative. So long as any shares of Series Preferred shall be outstanding, no dividend, whether in cash or property, shall be paid or declared (other than a dividend payable solely in Common Stock), nor shall any other distribution be made, on the Common Stock, nor shall any shares of Common Stock of the Corporation be purchased, redeemed, or otherwise acquired for value by the Corporation (except for acquisitions of Common Stock by the Corporation pursuant to agreements which permit the Corporation to repurchase such shares, at the original purchase price for such shares, upon termination of services to the Corporation or in exercise of the Corporation's right of first refusal upon a proposed transfer) until all then declared but unpaid dividends on the Series Preferred shall have been paid or set apart. In the event that dividends are paid on any share of Common Stock, an additional dividend shall be paid with respect to all outstanding shares of Series Preferred in an amount per share (on an as-converted basis) equal to the amount paid or set aside for each share of Common Stock.

(b) Non-Cash Dividends. In the event that a dividend provided for in this Section 2 shall be 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 Corporation's Board of Directors.

2. Liquidation Preference.

(a) Subject to the rights of any series of Preferred Stock that may from time to time come into existence, in the event of any liquidation, dissolution or winding up of the Corporation, either voluntary or involuntary, the holders of Series Preferred shall be entitled to receive, prior and in preference to any distribution of any of the assets of the Corporation to the holders of Common Stock by reason of their ownership thereof, an amount per share equal to (i) (A) \$0.44 for each outstanding share of Series A Preferred Stock as adjusted for any stock dividends, combinations, splits or recapitalizations with respect to such shares; (B) \$0.73 for each outstanding share of Series B Preferred Stock as adjusted for any stock dividends, combinations, splits or recapitalizations with respect to such shares; (C) \$0.59 for each outstanding share of Series C Preferred Stock as adjusted for any stock dividends, combinations, splits or recapitalizations with respect to such shares; (D) \$0.43 for each outstanding share of Series D Preferred Stock as adjusted for any stock dividends, combinations, splits or recapitalizations with respect to such shares; (E) \$0.827 for each outstanding share of Series E Preferred Stock as adjusted for any stock dividends, combinations, splits or recapitalizations with respect to such shares; and (F) \$0.22 for each outstanding share of Series F Preferred Stock as adjusted for any stock dividends, combinations, splits or recapitalizations with respect to such shares (the "Original Issue Price," respectively, for each series of Series Preferred), plus (ii) any declared but unpaid dividends on such share. If upon the occurrence of such event, the assets

and funds thus distributed among the holders of the Series Preferred shall be insufficient to permit the payment to such holders of the full aforesaid preferential amounts, then the entire assets and funds of the Corporation legally available for distribution shall be distributed first, ratably among the holders of the Series F Preferred Stock in proportion to the total preferential amount to which each such holder is entitled; second, ratably among the holders of the Series D Preferred Stock and the Series E Preferred Stock on a pari passu basis in proportion to the total preferential amount to which each such holder is entitled; third, ratably among the holders of the Series C Preferred Stock in proportion to the total preferential amount to which each such holder is entitled; and fourth, ratably among the holders of the Series A Preferred Stock and the Series B Preferred Stock on a pari passu basis in proportion to the total preferential amount to which each such holder is entitled.

(b) Upon the completion of the distribution required by subparagraph (a) of this Section 2, all of the remaining assets of the Corporation available for distribution to shareholders shall be distributed ratably among the holders of Common Stock and Series F Preferred Stock in proportion to the number of shares of Common Stock and Series F Preferred Stock (on an as-converted to Common Stock basis) then held by each such holder; provided, however, that the aggregate distribution to holders of Series F Preferred Stock pursuant to subparagraphs (a) and (b) of this Section 2 on a per share basis shall not exceed two and one-half times (2.5x) the Original Issue Price of such shares.

(c) (i) For purposes of this Section 2, a liquidation, dissolution or winding up of the Corporation shall be deemed to be occasioned by, or to include, (A) the acquisition of the Corporation by another entity or entities, acting in concert, by means of any transaction or series of related transactions (including, without limitation, any reorganization, merger or consolidation, but excluding any merger effected exclusively for the purpose of changing the domicile of the Corporation or the issuance of the Corporation's equity securities for capital raising purposes) that results in the Corporation's shareholders constituted immediately prior to such transaction holding less than fifty percent (50%) of the voting power of the surviving or acquiring entity (an "Acquisition"); or (B) a sale or other disposition of all or substantially all of the assets of the Corporation (an "Asset Transfer").

(ii) In any of such events described in subparagraph (c)(i) of this Section 2, if the consideration received by the Corporation is other than cash, its value will be deemed its fair market value as determined in good faith by the Corporation's Board of Directors, except that any securities to be distributed to the shareholders shall be valued as follows:

(A) Securities not subject to investment letter or other similar restrictions on free marketability covered by (B) below:

(1) If traded on a securities exchange or through the Nasdaq Global Market, the value shall be deemed to be the average of the closing sale prices of the securities on such quotation system over the thirty (30) day period ending three (3) days prior to the closing of an event described in subparagraph (c)(i) of this Section 2;

(2) If actively traded over-the-counter, the value shall be deemed to be the average of the closing bid or sale prices (whichever is applicable) over

the thirty (30) day period ending three (3) days prior to the closing of an event described in subparagraph (c)(i) of this Section 2; and

(3) If there is no active public market, the value shall be the fair market value thereof, as mutually determined by the Corporation and the holders of at least a majority of the voting power of all then outstanding shares of Series Preferred.

(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 shareholder's status as an affiliate or former affiliate) shall be to make an appropriate discount from the market value determined as above in subparagraphs (A) (1), (2) or (3) of this Section 2 to reflect the approximate fair market value thereof, as mutually determined by the Corporation and the holders of at least a majority of the voting power of all then outstanding shares of Series Preferred.

(iii) The Corporation shall give each holder of record of Series Preferred written notice of such impending transaction described in subparagraph (c)(i) of this Section 2 not later than twenty (20) days prior to the shareholders' meeting called to approve such transaction, or twenty (20) 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 2, and the Corporation shall thereafter give such holders prompt notice of any material changes. The transaction shall in no event take place sooner than twenty (20) days after the Corporation has given the first notice provided for herein or sooner than ten (10) days after the 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 Series Preferred representing at least a majority of the voting power of all then outstanding shares of Series Preferred.

3. Redemption. The Series Preferred is not redeemable.

4. Conversion. The holders of the Series Preferred shall have conversion rights as follows (the "Conversion Rights"):

(a) Right to Convert. Each share of Series Preferred shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share, at the office of the 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 Original Issue Price of the applicable series of Series Preferred by the conversion price applicable to such share, determined as hereafter provided, in effect on the date the certificate is surrendered for conversion. Upon the date of the filing of these Amended and Restated Articles of Incorporation with the California Secretary of State (the "File Date"), the initial conversion price per share for shares of (i) Series A Preferred Stock shall be \$0.4369; (ii) Series B Preferred Stock shall be \$0.6377; (iii) Series C Preferred Stock shall be \$0.4300; (iv) Series D Preferred Stock shall be \$0.4300; (v) Series E Preferred Stock shall be \$0.827; and (vi) Series F Preferred Stock shall be \$0.2200 (the "Conversion Price," respectively, for each series of Series Preferred and as may be adjusted pursuant to this Section 4(a)). Immediately following the issuance of at least 39,500,000 shares of Series F Preferred Stock pursuant to a Series F Preferred Stock Purchase Agreement to be entered into between the Corporation and certain Investors named therein (the

"Series F Purchase Agreement"), the Conversion Price for each series of Series Preferred shall be automatically adjusted for shares of (i) Series A Preferred Stock to \$0.3577; (ii) Series B Preferred Stock to \$0.4852; (iii) Series C Preferred Stock to \$0.3533; (iv) Series D Preferred Stock to \$0.3533; (v) Series E Preferred Stock to \$0.6054; and (vi) Series F Preferred Stock to \$0.2200 provided, however, that the Conversion Prices for the Series Preferred shall be subject to adjustment or further adjustment, as applicable, as set forth in subsection 4(d).

(b) Automatic Conversion. Each share of Series Preferred shall automatically be converted into shares of Common Stock at the applicable Conversion Price at the time in effect for such series of Series Preferred immediately upon the earlier of (i) the 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 "Securities Act"), the public offering price of which equals or exceeds \$1.32 per share (adjusted to reflect subsequent stock dividends, stock splits or recapitalization), with a total offering, after deduction of underwriters' commissions and expenses, of at least \$30,000,000 or (ii) the date specified by written consent or approval of a majority of the then outstanding shares of Series Preferred, voting together as a single class on an as-converted to Common Stock basis. Upon such automatic conversion, any declared and unpaid dividends shall be paid in accordance with the provisions of Article III, Section B(1).

(c) Mechanics of Conversion. Before any holder of Series Preferred shall be entitled to convert the same into shares of Common Stock, the holder shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Corporation or of any transfer agent for the Series Preferred, and shall give written notice to the Corporation at its principal corporate office of the election to convert the same and shall state therein the name or names in which the certificate or certificates for shares of Common Stock are to be issued. The Corporation shall, as soon as practicable thereafter, issue and deliver at such office to such holder of Series Preferred, 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 shall be entitled as aforesaid. 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 Series Preferred to be converted, and the person or persons entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock as of such date. If the conversion is in connection with an underwritten offering of securities registered pursuant to the Securities Act, the conversion shall be conditioned upon the closing with the underwriters of the sale of securities pursuant to such offering, in which event the person(s) entitled to receive the Common Stock upon conversion of the Series Preferred shall not be deemed to have converted such Series Preferred until immediately prior to the closing of such sale of securities.

(d) Conversion Price Adjustments of Series Preferred for Certain Dilutive Issuances, Splits and Combinations. The respective Conversion Prices of the Series Preferred shall be subject to adjustment from time to time as follows:

(i) (A) In the event the Corporation shall issue or be deemed pursuant to the terms hereof to have issued, after the File Date, any Additional Stock (as defined below) without consideration or for a consideration per share less than the then applicable Conversion Price for the Series A Preferred Stock or Series B Preferred Stock or Series C Preferred Stock or Series D Preferred Stock or Series E Preferred Stock or Series F

Preferred Stock in effect immediately prior to the issuance of such Additional Stock, the Conversion Price for the Series A Preferred Stock and/or Series B Preferred Stock and/or Series C Preferred Stock and/or Series D Preferred Stock and/or Series E Preferred Stock and/or Series F Preferred Stock in effect immediately prior to each such issuance shall forthwith (except as otherwise provided in this Section 4(d)(i)) be adjusted to a price determined by multiplying the then applicable Conversion Price of the applicable series of Series Preferred by a fraction, the numerator of which shall be equal to the total computed under clause (1) below and the denominator of which shall be equal to the total computed under clause (2) below:

- (1) an amount equal to the sum of (a) the number of shares of Outstanding Common Stock (as such term is defined below) outstanding immediately prior to such issue or sale, plus (b) the number of shares of Outstanding Common Stock that the aggregate consideration received (or deemed received) by the Corporation for the total number of Additional Stock so issued (or deemed issued) would purchase at such Conversion Price, and
- (2) an amount equal to the sum of (a) the number of shares of Outstanding Common Stock outstanding immediately prior to such issue or sale plus (b) the number of such Additional Stock so issued (or deemed issued).

As used herein, the term "Outstanding Common Stock" means all shares of Common Stock that are outstanding plus all shares of Common Stock issuable upon conversion of Series Preferred, or the exercise of any outstanding options or warrants.

(B) No adjustment of the Conversion Price for the Series Preferred shall be made in an amount less than one tenth of one cent per share, provided that any adjustments which are not required to be made by reason of this sentence shall be carried forward and shall be either taken into account in any subsequent adjustment made prior to three years from the date of the event giving rise to the adjustment being carried forward, or shall be made at the end of three years from the date of the event giving rise to the adjustment being carried forward; and provided further that in all events any such adjustments which are not required to be made by reason of this sentence (and which have not then been made) shall be made immediately prior to conversion to Common Stock. Except to the limited extent provided for in subsections (d)(i)(F)(3) and (d)(i)(F)(4) of this Section 4, no adjustment of such Conversion Price pursuant to this subsection 4(d)(i) shall have the effect of increasing the Conversion Price above the Conversion Price in effect immediately prior to such adjustment; provided, however, that in no case shall the Conversion Price ever exceed the respective applicable Conversion Price in effect as of the File Date except pursuant to the provisions of subsection 4(d)(iv) hereof.

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

(D) In the case of the issuance of Common Stock for a consideration in whole or in part other than cash, the consideration other than cash shall be

deemed to be the fair market value thereof as determined by the Corporation's Board of Directors irrespective of any accounting treatment.

(E) If Common Stock, convertible securities or rights or options to purchase either Additional Stock or convertible securities are issued or sold together with other stock or securities or other assets of the Corporation for a consideration which covers both, the consideration shall be computed as the portion of the consideration so received that may be reasonably determined in good faith by the Corporation's Board of Directors to be allocable to such Additional Stock, convertible securities or rights or options.

(F) In the case of the issuance (whether before, on or after the File Date) of options to purchase or rights to subscribe for Common Stock, securities by their terms convertible into or exchangeable for Common Stock or options to purchase or rights to subscribe for such convertible or exchangeable securities, the following provisions shall apply for all purposes of this subsection 4(d)(i) and subsection 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 options to purchase or rights to subscribe for Common Stock shall be deemed to have been issued at the time such options or rights were issued and for a consideration equal to the consideration (determined in the manner provided in subsections 4(d)(i)(C) and 4(d)(i)(D)), if any, received by the Corporation upon the issuance of such options or rights plus the minimum exercise price provided in such options or rights (without taking into account potential antidilution adjustments) 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 shall 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 the 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 the Corporation (without taking into account potential antidilution adjustments) (other than by cancellation of liabilities or obligations evidenced by convertible or exchangeable securities) 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 subsections 4(d)(i)(C) and 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 the 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 thereof, the Conversion Price of the Series Preferred, to the extent in any way affected by or computed using such options, rights or securities, shall be recomputed to reflect such

change, but no further adjustment shall be made for the actual issuance of Common Stock or any payment of such consideration upon the exercise of any such options or 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 the Series Preferred, to the extent in any way affected by or computed using such options, rights or securities or options or rights related to such securities, shall be recomputed to reflect the issuance of only the number of shares of Common Stock (and convertible or exchangeable securities which 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 subsections 4(d)(i)(F)(1) and 4(d)(i)(F)(2) shall be appropriately adjusted to reflect any change, termination or expiration of the type described in either subsections 4(d)(i)(F)(3) or 4(d)(i)(F)(4).

(ii) "Additional Stock" shall mean any shares of Common Stock issued (or deemed to have been issued pursuant to subsection 4(d)(i)(F)) by the Corporation after the File Date other than:

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

(B) up to 18,274,457 shares of Common Stock and/or options therefore (net of repurchases, expirations, cancellations and the like, and as adjusted for any stock dividends, combinations or splits with respect to such shares) issued or issuable to employees, officers, directors, consultants or advisors of the Corporation directly or pursuant to a stock option plan or restricted stock plan or other arrangement approved by the Board of Directors of the Corporation;

(C) shares of Common Stock issued upon conversion of shares of Series Preferred;

(D) up to an aggregate of 1,250,000 shares of stock and/or warrants therefore (net of repurchases, expirations, cancellations and the like, and as adjusted for stock dividends, combinations or splits) (i) issued to leasing companies, landlords, lenders and other providers of goods or services to the Corporation, provided in each case such issuances are for other than primarily equity financing purposes and that the issuance of such securities is approved by the Corporation's Board of Directors; or (ii) issued to parties providing the Corporation with equipment leases, real property leases, loans, credit lines or guarantees of indebtedness; provided, in each case, the issuance of such warrants is approved by the Corporation's Board of Directors;

(E) warrants to purchase shares of Series F Preferred Stock issued by the Corporation pursuant to that certain Note and Warrant Purchase Agreement dated as of August 14, 2007 and amended and restated on December 21, 2007 (the "Note");

Purchase Agreement"), and all shares of Series F Preferred Stock or any other securities issuable or issued upon exercise of such warrants; or

(F) up to an aggregate of 40,000,000 shares of Series F Preferred Stock issued by the Corporation pursuant to the Series F Purchase Agreement or upon the conversion of convertible promissory notes issued by the Corporation pursuant to the Note Purchase Agreement, bridge loan financing dated February 14, 2008 and the bridge loan financing dated March 13, 2008.

(iii) In the event the Corporation should at any time or from time to time after the File 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, or entitling the holder thereof to receive directly or indirectly, additional shares of Common Stock (hereinafter referred to as "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 the Series Preferred shall be appropriately decreased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be increased in proportion to such increase of the aggregate of shares of Common Stock outstanding and those issuable with respect to such Common Stock Equivalents.

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

(e) Other Distributions. In the event the Corporation shall declare a distribution payable in securities of other persons, evidences of indebtedness issued by the Corporation or other persons, assets (excluding cash dividends) or options or rights not referred to in subsection 4(d)(iii), then, in each such case for the purpose of this subsection 4(e), the holders of the Series Preferred shall 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 the Corporation into which their shares of Series Preferred are convertible as of the record date fixed for the determination of the holders of Common Stock of the Corporation entitled to receive such distribution.

(f) Recapitalizations. If at any time or from time to time there shall be a recapitalization of the Common Stock (other than a subdivision, combination or merger or sale of assets transaction provided for elsewhere in this Section 4 or Section 2) provision shall be made so that the holders of the Series Preferred shall thereafter be entitled to receive upon conversion of the Series Preferred the number of shares of stock or other securities or property of the Corporation or otherwise, to which a holder of Common Stock deliverable upon conversion would have been entitled on such recapitalization. In any such case, appropriate adjustment shall be made in the application of the provisions of this Section 4 with respect to the rights of the

holders of the Series Preferred after the recapitalization to the end that the provisions of this Section 4 (including adjustment of the Conversion Price then in effect and the number of shares purchasable upon conversion of the Series Preferred) shall be applicable after that event as nearly equivalent as may be practicable.

(g) No Impairment. Without the consent of the holders of Series Preferred as specified in Section 6, the Corporation will not, by amendment of its 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 Corporation, but will at all times in good faith assist in the carrying out of all the provisions of this Section 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 Series Preferred against impairment.

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

(i) No fractional shares shall be issued upon the conversion of any share or shares of the Series Preferred, and the number of shares of Common Stock to be issued shall be rounded down to the nearest whole share and the Corporation shall pay in cash the fair market value of such fractional shares, as determined in good faith by the Corporation's Board of Directors when those entitled to receive such fractional shares are determined. Whether or not fractional shares are issuable upon such conversion shall be determined on the basis of the total number of shares of Series Preferred 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 Series Preferred pursuant to this Section 4, the Corporation, at its expense, shall promptly compute such adjustment or readjustment in accordance with the terms hereof and prepare and furnish to each holder of Series Preferred a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, upon the written request at any time of any holder of Series Preferred, furnish or cause to be furnished to such holder a like certificate setting forth (A) the consideration received or deemed to be received by the Corporation for any Additional Shares of Common Stock issued or sold or deemed to have been issued or sold, (B) such adjustment and readjustment, (C) the Conversion Price for such series of Series Preferred at the time in effect, and (D) the number of shares of Common Stock and the amount, if any, of other property which at the time would be received upon the conversion of a share of Series Preferred.

(i) Notices of Record Date. In the event of any taking by the Corporation of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend (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, the Corporation shall mail to each holder of Series Preferred, 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. The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of the shares of the Series Preferred, such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of the Series Preferred; and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Series Preferred, in addition to such other remedies as shall be available to the holder of such Series Preferred, the Corporation will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes, including, without limitation, engaging in best efforts to obtain the requisite shareholder approval of any necessary amendment to these Amended and Restated Articles of Incorporation.

(k) Notices. Any notice required by the provisions of this Section 4 to be given to the holders of shares of Series Preferred shall be in writing and shall be personally delivered, sent by facsimile or electronic mail or delivered by a nationally recognized overnight courier, addressed at such address, facsimile number or electronic mail address as such holder shall have furnished to the Corporation in writing. Any such notice shall be deemed to have been received (i) in the case of personal delivery or delivery by telecopier, on the date of such delivery, (ii) in the case of a nationally-recognized overnight courier, on the next business day after the date when sent if such date is a business day, otherwise the next business day and (iii) in the case of electronic mail, upon confirmation of delivery when directed to the electronic mail address identified above.

(l) Taxes. The Corporation shall pay any and all issue and other similar taxes that may be payable as a result of any issue or delivery of shares of Common Stock on conversion of Series Preferred pursuant hereto; provided, however, that the Corporation shall not be obligated to pay any transfer taxes resulting from any transfer requested by any holder in connection with any such conversion.

(m) Special Mandatory Conversion.

(i) In the event that a holder of shares of Series Preferred does not participate in a Qualified Financing (as defined below) by purchasing in the aggregate (within such time period as established by the Board of Directors of the Corporation), in such Qualified Financing, at least such holder's Pro Rata Amount (as defined below) of the Offered Securities (as defined below), then all of the shares of Series Preferred held by such holder shall automatically, and without any further action on the part of such holder, be converted into shares of Common Stock at the applicable Conversion Price in effect immediately prior to the consummation of such Qualified Financing, effective upon, subject to, and concurrently with, the consummation of the Qualified Financing.

Notwithstanding the foregoing, if such holder participates in the Qualified Financing but not to the full extent of such holder's Pro Rata Amount, then a percentage of each series of Series Preferred held by such holder will be converted into Common Stock (under the same terms as in the preceding sentence), with such percentage being equal to the percent of such holder's Pro Rata Amount that it failed to purchase in the Qualified Financing.

For purposes of determining the number of shares of Series Preferred owned by a holder, including in the definition of Pro Rata Amount, and for determining the number of Offered Securities a holder of Series Preferred has purchased in a Qualified Financing, all shares of Series Preferred held by Affiliates of such holder shall be aggregated with such holder's shares and all Offered Securities purchased by Affiliates of such holder shall be aggregated with the Offered Securities purchased by such holder (provided that no shares or securities shall be attributed to more than one entity or person within any such group of affiliated entities or persons). Upon such conversion (a "Special Mandatory Conversion"), any shares of Series Preferred so converted shall be cancelled and not subject to reissuance.

(ii) Upon a Special Mandatory Conversion, each holder of shares of Series Preferred converted pursuant to Section 4(m)(i) above shall surrender his, her or its certificate or certificates for all such shares to the Corporation at the place designated in such notice, and shall thereafter receive certificates for the number of shares of Common Stock to which such holder is entitled pursuant to this Section 4(m). All rights with respect to the Series Preferred converted pursuant to Section 4(m)(i), including the rights, if any, to receive notices and vote (other than as a holder of Common Stock), will terminate, except only the rights of the holders thereof, upon surrender of their certificate or certificates therefor, to receive certificates for the number of shares of Common Stock into which such Series Preferred has been converted, and payment of any declared but unpaid dividends thereon. If so required by the Corporation, certificates surrendered for conversion shall be endorsed or accompanied by written instrument or instruments of transfer, in form satisfactory to the Corporation, duly executed by the registered holder or by his, her or its attorney duly authorized in writing. As soon as practicable after the Special Mandatory Conversion and the surrender of the certificate or certificates for the Series Preferred so converted, the Corporation shall cause to be issued and delivered to such holder, or on his, her or its written order, a certificate or certificates for the number of full shares of Common Stock issuable on such conversion in accordance with the provisions hereof and cash in respect of any fraction of a share of Common Stock otherwise issuable upon such conversion. All certificates evidencing shares of Series Preferred cancelled, and the shares of Series Preferred converted pursuant to Section 4(m)(i) represented thereby shall, from and after the time of the Special Mandatory Conversion, be deemed to have been converted into Common Stock for all purposes, notwithstanding the failure of the holder or holders thereof to surrender such certificates on or prior to such date. The Corporation may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of Series Preferred or any series of Series Preferred accordingly.

(iii) For purposes of this Section 4(m), the following definitions shall be applicable:

(A) "Affiliate" means, with respect to any holder of shares of Series Preferred, any person, entity or firm which, directly or indirectly, controls, is controlled by or is under common control with such holder, including, without limitation, any entity of which the holder is a partner or member, any partner, officer, director, member or employee of such holder and any venture capital fund now or hereafter existing of which the holder is a partner or member which is controlled by or under common control with one or more general partners of such holder or shares the same management company with such holder.

(B) "Offered Securities" means the securities sold in the Qualified Financing. Solely for the purposes of the first Qualified Financing following the 2007 Bridge, the number of Offered Securities shall be determined as if the amounts invested in the

2007 Bridge and 2008 Bridge had been invested in such Qualified Financing.

(C) "Pro Rata Amount" means the fraction obtained by dividing the number of shares of Series Preferred (as if converted to Common Stock) held by such holder immediately prior to the Qualified Financing by the total number of shares of Series Preferred (as if converted to Common Stock) outstanding immediately prior to the Qualified Financing

(D) "Qualified Financing" means any future equity financing in which the price per share of the equity securities issued in such financing is less than the then applicable Conversion Price of the Series F Preferred Stock, or any future bridge loan financing.

(iv) Any Mandatory Conversion pursuant to Section 4(m)(i) may be waived as it relates to any Qualified Financing by the vote of the holders of at least a majority of the then outstanding shares of Series Preferred, voting as a single class on an as-converted to Common Stock basis.

5. Voting Rights.

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

(b) Voting for the Election of Directors. The authorized number of directors of the corporation shall be seven (7). The holders of a majority of the Series C Preferred Stock, voting as a separate series, shall be entitled to elect one (1) director. The holders of a majority of the Series E Preferred Stock, voting as a separate series, shall be entitled to elect two (2) directors. The holders of a majority of the Series Preferred, voting as a single class on an as-converted to Common Stock basis, shall be entitled to elect three (3) directors. The holders of a majority of the Common Stock, voting as a separate class, shall be entitled to elect one (1) director.

(c) Vacancy. If there shall be any vacancy in the office of a director elected or to be elected by the holders of any specified class or series of stock under Section 5(b) above (the "Specified Stock"), then a director to hold office for the unexpired term of such directorship may be elected by the required vote of holders of the shares of such Specified Stock specified in Section 5(b) above that are entitled to elect such director.

(d) Removal. Any director who shall have been elected by the holders of any Specified Stock as provided in Section 5(b) may be removed during his or her term of office, without cause, by, and only by, the affirmative vote, on an as-converted basis, of

Specified Stock representing the percentage vote required by Section 303 of the California Corporations Code, given either at a meeting of such shareholders duly called for that purpose or pursuant to a written consent of shareholders without a meeting, and any vacancy created by such removal may be filled only in the manner provided in Section 5(c) above.

(e) Procedures. Any meeting of the holders of any Specified Stock, and any action taken by the holders of any Specified Stock by written consent without a meeting, in order to elect or remove a director under this Section 5, shall be held in accordance with the procedures and provisions of the Corporation's Bylaws, the California Corporations Code and applicable law regarding shareholder meetings and shareholder actions by written consent, as such are then in effect (including but not limited to procedures and provisions for determining the record date for shares entitled to vote).

6. Protective Provisions.

(a) So long as at least 250,000 shares of Series Preferred are outstanding (as adjusted for any stock dividends, combinations or splits with respect to such shares), the Corporation shall not, directly or indirectly (whether by merger, consolidation or otherwise), without first obtaining the approval (by vote or written consent, as provided by law) of the holders of a majority of the then outstanding shares of Series Preferred, voting as a single class on an as-converted to Common Stock basis:

- (i) liquidate or dissolve the Corporation;
- (ii) amend its Amended and Restated Articles of Incorporation or its Bylaws;
- (iii) effect an Acquisition, Asset Transfer or other sale, conveyance or disposition, lease, license or encumbrance of all or substantially all of its property or business or merge into or consolidate with any other corporation (other than a wholly-owned subsidiary corporation) or effect any transaction or series of related transactions in which more than fifty percent (50%) of the voting power of the Corporation is disposed of;
- (iv) pay or declare any dividend, whether in cash or property, on the Common Stock or the Series Preferred;
- (v) form any subsidiary corporation;
- (vi) redeem, purchase or otherwise acquire (or pay into or set aside for a sinking fund for such purpose) any share or shares of Series Preferred or Common Stock; provided, however, that this restriction shall not apply to the repurchase of shares of Common Stock from employees, officers, directors, consultants or other persons performing services for the Corporation or any subsidiary pursuant to agreements which have been approved by the Corporation's Board of Directors and under which the Corporation has the option to repurchase such shares at cost or at cost upon the occurrence of certain events, such as the termination of employment;
- (vii) alter or change the rights, preferences or privileges of the shares of the Series Preferred (by merger, reorganization or otherwise) or amend its Amended

and Restated Articles of Incorporation or its Bylaws; provided, however, that in the event that any such alteration or change, or any such amendment, would materially and adversely affect one series of Series Preferred in a different manner than other shares of Series Preferred, then, so long as at least 250,000 shares of such series of Series Preferred are outstanding (as adjusted for any stock dividends, combinations or splits with respect to such shares), such alteration, change or amendment shall also require the approval (by vote or written consent, as provided by law) of the holders of at least a majority of the then outstanding shares of such series of Series Preferred;

(viii) reclassify any series of Series Preferred or authorize or issue, or obligate itself to issue, any other equity security, including any other security convertible into or exercisable for any equity security, having a preference over, or being on a parity with, any of the series of the Series Preferred, including as to dividends, liquidation preference, redemption or voting;

(ix) increase or decrease the authorized number of shares of Common Stock or Preferred Stock; or

(x) increase or decrease the size of the Corporation's Board of Directors.

7. Status of Converted or Redeemed Stock. In the event any shares of Series Preferred shall be redeemed or converted pursuant to Section 3 or Section 4 hereof, the shares so converted or redeemed shall be canceled and shall not be issuable by the Corporation. The Amended and Restated Articles of Incorporation of the Corporation shall be appropriately amended to effect the corresponding reduction in the Corporation's authorized capital stock.

C. Common Stock.

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 shall be entitled to receive, when, as and if declared by the Corporation's Board of Directors, out of any assets of the Corporation legally available therefor, such dividends as may be declared from time to time by the Corporation's Board of Directors.

2. Liquidation Rights. Upon the liquidation, dissolution or winding up of the Corporation, the assets of the Corporation shall be distributed as provided in Section 2(b) of this Article III hereof.

3. Redemption. The Common Stock is not redeemable.

4. Voting Rights. The holder shall have the right to one vote for each share of Common Stock, and shall be entitled to notice of any shareholders' meeting in accordance with the Bylaws of the Corporation, and shall be entitled to vote upon such matters and in such manner as may be provided by law.

ARTICLE IV

A. 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 the immediately preceding sentence shall not eliminate or reduce the effect of this Article IV(A) in respect of any matter occurring, or any cause of action, suit or claim that, but for this Article IV(A), would accrue or arise, prior to the time of such amendment, repeal or modification.

B. The Corporation is authorized to provide indemnification of agents (as defined in Section 317 of the California Corporations Code) through bylaw provisions, agreements with the 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 applicable limits set forth in Section 294 of the California Corporations Code with respect to actions for breach of duty to the Corporation and its shareholders. Unless applicable law otherwise requires, any amendment, repeal or modification of any provision of the immediately preceding sentence shall not adversely affect any contract or other right to indemnification of any agent of the Corporation that existed at or prior to the time of such amendment, repeal or modification.

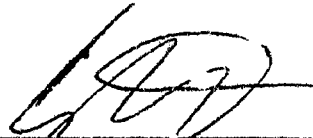
* * *

THREE: The foregoing amendment has been approved by the Board of Directors of said corporation.

FOUR: The foregoing amendment was approved by the holders of the requisite number of shares of said corporation in accordance with Sections 902 and 903 of the California General Corporation Law; the total number of outstanding shares of each class entitled to vote with respect to the foregoing amendment was 10,893,291 shares of Common Stock; 829,545 shares of Series A Preferred Stock, 4,794,616 shares of Series B Preferred Stock, 8,576,341 shares of Series C Preferred Stock, 12,188,356 shares of Series D Preferred Stock and 17,631,037 shares of Series E Preferred Stock. The number of shares voting in favor of the foregoing amendment equaled or exceeded the vote required. The percentage vote required was more than fifty percent (50%) of the outstanding shares of Common Stock and Preferred Stock (on an as-converted to Common Stock basis), voting together without regard to class or series; more than fifty percent (50%) of the outstanding shares of Common Stock, voting as a separate class; and more than fifty percent (50%) of the outstanding shares of Preferred Stock (on an as-converted to Common Stock basis), voting together as a single class.

The undersigned certify under penalty of perjury under the laws of the State of California that they have read the foregoing Amended and Restated Articles of Incorporation and know the contents thereof, and that the statements therein are true.

IN WITNESS WHEREOF, these Amended and Restated Articles of Incorporation have been signed by the President and Secretary of the Corporation under the laws of the State of California this 2nd day of April, 2008.




Craig Livingston, President

Eric Larkin, Secretary

The undersigned certify under penalty of perjury under the laws of the State of California that they have read the foregoing Amended and Restated Articles of Incorporation and know the contents thereof, and that the statements therein are true.

IN WITNESS WHEREOF, these Amended and Restated Articles of Incorporation have been signed by the President and Secretary of the Corporation under the laws of the State of California this 2nd day of April, 2008.

Craig Livingston, President



Eric Larkin, Secretary