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in the office of the Secretary of State
of the State of California

NOV 18 2003

Kevin Shelley
KEVIN SHELLEY, Secretary of State

**AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF ARAVO SOLUTIONS, INC.**

Tim Albinson hereby certifies that:

- A. He is the President and Secretary, of Aravo Solutions, Inc., a California corporation.
- B. The Articles of Incorporation of this corporation are amended and restated in their entirety to read as set forth on Exhibit A attached hereto, and Exhibit A attached hereto is hereby incorporated into this certificate by reference as if fully set forth herein.
- C. The Amended and Restated Articles of Incorporation have been duly approved by the Board of Directors.
- D. The amendment and restatement of the Articles of Incorporation has been duly approved by the required vote of the shareholders in accordance with Sections 902 and 903 of the California Corporations Code. The total number of outstanding shares entitled to vote with respect to the amendment and restatement is 7,990,955 shares of Common Stock, 4,556,163 of Series A Preferred Stock and 2,689,865 shares of Series A Prime Preferred Stock. The number of shares voting in favor of the amendment and restatement equaled or exceeded the vote required. The percentage vote required was a majority of the outstanding shares of Common Stock, voting together as a single class, and a majority of the outstanding shares of Preferred Stock, voting together as a single class, and a majority of the outstanding shares of Series A Prime Preferred Stock, voting together as a single class.

The undersigned further declares under penalty of perjury under the laws of the State of California that the matters set forth in the foregoing certificate are true and correct to their own knowledge.

Executed on November 17, 2003.



Tim Albinson, President/ Secretary

EXHIBIT A

**AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF ARAVO SOLUTIONS, INC.**

I

The name of this corporation is Aravo Solutions, Inc.

II

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

III

This corporation is authorized to issue two classes of stock to be designated Common Stock and Preferred Stock. The total number of shares of Common Stock that the corporation is authorized to issue is 50,000,000 shares, \$0.001 par value. The total number of shares of Preferred Stock that the corporation is authorized to issue is 17,180,894 shares, \$0.001 par value, 7,742,001 of which shall be designated Series A Preferred Stock and 9,438,893 of which shall be designated Series A Prime Preferred Stock.

IV

The relative powers, preferences, special rights, qualifications, limitations and restrictions granted to or imposed on the respective classes of the shares of capital stock or the holders thereof are as follows:

I. Dividends.

(a) **Preference.** The holders of Series A and Series A Prime Preferred Stock shall be entitled to receive dividends, out of any assets legally available therefor on a pari passu basis and prior and in preference to any declaration or payment of any dividend (payable other than in

Common Stock or other securities and rights convertible into or entitling the holder thereof to receive, directly or indirectly, additional shares of Common Stock of this corporation) on the Common Stock of this corporation, at the rate of \$0.05 per share per annum for the Series A and Series A Prime Preferred Stock or, if greater (as determined on a per annum basis and on an as converted basis for the Preferred Stock), an amount equal to that paid on any other outstanding shares of this corporation. No dividends shall be paid on any shares of Common Stock unless a dividend (including the amount of any dividend paid pursuant to the above provision) is paid with respect to all outstanding shares of Series A and Series A Prime Preferred Stock in an amount for each such share of Series A and Series A Prime Preferred Stock equal to or greater than the aggregate amount of such dividends for all shares of Common Stock into which each such share of Series A and Series A Prime Preferred Stock could then be converted.

(b) Dividends Noncumulative. Dividends on shares of Common Stock and Preferred Stock under this Section 1 shall be payable when, as and if declared by the board of directors of the corporation, and shall not be cumulative, and no right shall accrue to holders of Common Stock or Preferred Stock under this Section 1 by reason of the fact that dividends on said shares are not declared in any prior period.

2. Liquidation Preference. In the event of any liquidation, dissolution, or winding up of the corporation, either voluntary or involuntary, distributions to the shareholders of the corporation shall be made in the following manner:

(a) Preferred Stock Preference. The holders of Series A and Series A Prime Preferred Stock shall be entitled to receive, on a pari passu basis and prior and in preference to any distribution of any of the assets or surplus funds of the corporation to the holders of Common Stock of the corporation, an amount equal to \$0.60 per share of Series A and Series A Prime Preferred Stock plus a further amount equal to any dividends declared but unpaid on such shares (subject to adjustment of such fixed dollar amount for any stock splits, stock dividends, combinations, recapitalizations or the like) (collectively, the "Preferred Stock Preference"). If upon such liquidation, dissolution or winding up of the corporation, the assets of the corporation are insufficient to provide for the cash payment described above to the holders of Series A and Series A Prime Preferred Stock, such assets as are available shall be paid to the holders of Series A and Series A Prime Preferred Stock in proportion to the full preferential amount each such holder is otherwise entitled to receive.

(b) Remaining Assets. After payment has been made to the holders of Series A and Series A Prime Preferred Stock of the full preferential amount set forth in Section 2(a) above, the holders of Common Stock and Series A Prime Preferred Stock shall be entitled to receive pro rata the remaining assets of the corporation in proportion to the number of shares of Common Stock held by them (with each holder of Series A Prime Preferred Stock being treated for this purpose as holding the number of shares of Common Stock into which such holder could have converted such holder's shares of Series A Prime Preferred Stock immediately prior to such event of liquidation, dissolution or winding up pursuant to the provisions of Section 4 below). Notwithstanding the immediately foregoing sentence and subject to Section 2(c) below, the right to share in the remaining

assets of the corporation following payment of the Preferred Stock Preference shall cease as to the holders of Series A Prime Preferred Stock once they receive an aggregate per share amount (including amounts previously paid as a Preferred Stock Preference) equal to \$1.80 (subject to adjustment of such fixed dollar amount for any stock splits, stock dividends, combinations, recapitalizations or the like). The entire remaining assets and funds of the corporation legally available for distribution, if any, shall be distributed ratably among the holders of Common Stock.

(c) Reorganization or Merger. A merger or reorganization of the corporation with or into any other corporation or corporations or a sale of all or substantially all of the assets of the corporation, in which transaction the corporation's shareholders immediately prior to such transaction own immediately after such transaction less than 50% of the equity securities of the surviving corporation or its parent, shall be deemed to be a liquidation within the meaning of this Section 2.

(d) Noncash Distributions. If any of the assets of the corporation are to be distributed other than in cash under Section IV2(c) or for any purpose, then the board of directors of the corporation shall promptly engage independent competent appraisers to determine the value of the assets to be distributed to the holders of Preferred Stock. The corporation shall, upon receipt of such appraiser's valuation, give prompt written notice to each holder of shares of Preferred Stock of the appraiser's valuation. Notwithstanding the above, any securities to be distributed to the shareholders shall be valued as follows:

(i) If traded on a securities exchange or the Nasdaq National Market, the value shall be deemed to be the average of the closing prices of the securities on such exchange, or the last reported sale prices on the Nasdaq National Market as the case may be, over the 30-day period ending three (3) business days prior to the closing;

(ii) If actively traded over-the-counter (other than on the Nasdaq National Market), the value shall be deemed to be the average of the closing bid prices over the 30-day period ending three (3) business days prior to the closing; and

(iii) If there is no active public market, the value shall be the fair market value thereof, as determined in good faith by the board of directors of this corporation.

3. Voting Rights. Except as otherwise required by law, the holder of each share of Preferred Stock shall be entitled to the number of votes equal to the number of shares of Common Stock into which each share of Preferred Stock could be converted on the record date for the vote or written consent of shareholders and shall have voting rights and powers equal to the voting rights and powers of the Common Stock when voting together with the Common Stock as a single class, which shall include, but not be limited to, the election of directors. The holder of each share of Preferred Stock shall be entitled to notice of any shareholders' meeting in accordance with the bylaws of the corporation and upon any other matter submitted to a vote of shareholders, except those matters required by law to be submitted to a class vote. Fractional votes shall not, however, be permitted and any fractional voting rights resulting from the above formula (after aggregating all

shares of Common Stock into which shares of Preferred Stock held by each holder could be converted) shall be rounded to the nearest whole number (with one-half rounded upward to one).

(a) Election of Directors. At each election of directors, (i) the holders of Series A Preferred Stock, voting as a separate series, shall be entitled to elect one (1) member of the corporation's board of directors, (ii) the holders of Series A Prime Preferred Stock, voting as a separate series, shall be entitled to elect one (1) member of the corporation's board of directors, (iii) the holders of Common Stock, voting as a separate class, shall be entitled to elect two (2) members of the corporation's board of directors, and (iv) the remaining directors shall be elected by the holders of the Preferred Stock and Common Stock, voting together as a single class. Any director who was elected by a specified series, class or classes of shares may be removed during his or her term of office, without cause, by the applicable vote of the holders of the shares of the series, class or classes of shares which initially elected such director pursuant to Section 303 of the California Corporations Code. Such vote may be given at a special meeting of such shareholders duly called or by an action by written consent for that purpose. Vacancies on the board of directors may be filled by the shareholders of the specified series, class or classes of shares entitled to vote upon the election of any director from which a vacancy arose.

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

(a) Right to Convert. Each share of Preferred Stock 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 the Preferred Stock, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing the Issuance Price by the Conversion Price, determined as hereinafter provided, in effect at the time of the conversion (the "Conversion Rate"). The Issuance Price for the Series A and Series A Prime Preferred Stock shall be \$0.60 per share. The Conversion Price for the Series A and Series A Prime Preferred Stock shall initially be \$0.60 per share. Such initial Conversion Price shall be subject to adjustment as hereinafter provided.

(b) Automatic Conversion. Each share of Series A Preferred Stock shall automatically be converted into shares of Common Stock at the then effective Conversion Rate (i) immediately prior to the closing of a firm commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, covering the offer and sale of Common Stock for the account of the corporation to the public in which the public offering price exceeds (prior to underwriter's discounts or commissions and offering expenses) \$2.40 per share (adjusted for any subsequent stock splits, stock dividends, reclassifications or recapitalizations) and the aggregate gross proceeds raised exceeds \$10,000,000 or (ii) on the date upon which the corporation obtains the consent of the holders of a majority of the shares of Series A Preferred Stock then outstanding, voting as a class. Each share of Series A Prime Preferred Stock shall automatically be converted into shares of Common Stock at the then effective Conversion Rate (i) immediately prior to the closing of a firm commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, covering the offer

and sale of Common Stock for the account of the corporation to the public in which the public offering price exceeds (prior to underwriter's discounts or commissions and offering expenses) \$2.40 per share (adjusted for any subsequent stock splits, stock dividends, reclassifications or recapitalizations) and the aggregate gross proceeds raised exceeds \$50,000,000 or (ii) on the date upon which the corporation obtains the consent of the holders of a majority of the shares of Series A Prime Preferred Stock then outstanding, voting as a class. In the event of the automatic conversion of the Preferred Stock upon a public offering as aforesaid, the person(s) entitled to receive the Common Stock issuable upon such conversion of Preferred Stock shall not be deemed to have converted such Preferred Stock until immediately prior to the closing of such sale of securities.

(c) Mechanics of Conversion. Before any holder of Preferred Stock shall be entitled to convert the same into full shares of Common Stock and to receive certificates therefor, such holder shall surrender the certificate or certificates therefor, duly endorsed, at the office of the corporation or of any transfer agent for the Preferred Stock, and shall give written notice to the corporation at such office that such holder elects to convert the same; provided, however, that in the event of an automatic conversion pursuant to Section IV4(b), the outstanding shares of Preferred Stock shall be converted automatically without any further action by the holders of such shares and whether or not the certificates representing such shares are surrendered to the corporation or its transfer agent, and provided further that the corporation shall not be obligated to issue certificates evidencing the shares of Common Stock issuable upon such automatic conversion unless the certificates evidencing such shares of Preferred Stock are either delivered to the corporation or its transfer agent as provided above, or the holder notifies the corporation or its transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the corporation to indemnify the corporation from any loss incurred by it in connection with such certificates. The corporation shall, as soon as practicable after such delivery, or such agreement and indemnification in the case of a lost certificate, issue and deliver at such office to such holder of Preferred Stock, a certificate or certificates for the number of shares of Common Stock to which the holder shall be entitled as aforesaid and a check payable to the holder in the amount of any cash amounts payable as the result of a conversion into fractional shares of Common Stock. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of Preferred Stock to be converted, or in the case of automatic conversion on the date of closing of the offering 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 on such date.

(d) Fractional Shares. In lieu of any fractional shares to which the holder of Preferred Stock would otherwise be entitled, the corporation may pay cash equal to such fraction multiplied by the then effective fair market value or round such fractional share up to a whole share (after aggregating all shares into which shares of Preferred Stock held by each holder could be converted). Whether or not fractional shares are issuable upon such conversion shall be determined on the basis of the total number of shares of Preferred Stock of each holder at the time converting into Common Stock and the number of shares of Common Stock issuable upon such aggregate conversion.

(e) Adjustment of Conversion Price. The Conversion Price of Preferred Stock shall be subject to adjustment from time to time as follows:

(i) If the corporation shall issue (or, pursuant to Section IV4(e)(i)(C)(z) hereof, shall be deemed to have issued) any Common Stock other than "Excluded Stock" (as defined below) for a consideration per share less than the Conversion Price for any series of Preferred Stock in effect immediately prior to the issuance of such Common Stock (excluding stock dividends, subdivisions, stock splits, combinations, dividends or recapitalizations which are covered by Sections IV4(e)(iii) IV4(e)(iv), and IV4(e)(v)) (the "Additional Shares"), the Conversion Price for such series of Preferred Stock in effect immediately after each such issuance of Additional Shares shall forthwith (except as provided in this Section IV4(e)) be adjusted as follows:

(A) For the Series A Preferred Stock, to a price (calculated to the nearest cent) equal to the product obtained by multiplying the Conversion Price for such series of Preferred Stock in effect immediately prior to such issuance of Additional Shares by a fraction,

(1) the numerator of which is equal to the sum of

(x) the total number of shares of Common Stock outstanding (including any shares of Common Stock issuable upon conversion of or exercise of, as the case may be, outstanding Preferred Stock, options, warrants or other convertible securities, or deemed to be issued pursuant to Section IV4(e)(i)(C)(z) immediately prior to such issuance of Additional Shares, plus

(y) the number of shares of Common Stock that the aggregate consideration received by this Corporation for such issuance of Additional Shares would purchase at the Conversion Price for such series of Preferred Stock in effect immediately prior to such issuance of Additional Shares; and

(2) the denominator of which is equal to the sum of

(x) the total number of shares of Common Stock outstanding (including any shares of Common Stock issuable upon conversion of or exercise of, as the case may be, outstanding Preferred Stock, options, warrants or other convertible securities, or deemed to be issued pursuant to Section IV4(e)(i)(C)(z) immediately prior to such issuance of Additional Shares, plus

(y) the number of shares of Additional Shares issued.

(B) For the Series A Prime Preferred Stock, to a price equal to the consideration per share received by the corporation for such Additional Shares so issued.

(C) For the purposes of any adjustment of the Conversion Price for any series of Preferred Stock pursuant to this clause (i), the following provisions shall be applicable:

(x) In the case of the issuance of Common Stock for cash, the consideration shall be deemed to be the amount of cash paid therefor after deducting any discounts or commissions paid or incurred by the corporation in connection with the issuance and sale thereof.

(y) 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 value thereof as reasonably determined by the board of directors of the corporation, in accordance with generally accepted accounting treatment; provided, however, that if, at the time of such determination, the corporation's Common Stock is traded in the over-the-counter market or on a national or regional securities exchange, such fair market value as determined by the board of directors of the corporation shall not exceed the aggregate "Current Market Price" (as defined below) of the shares of Common Stock being issued.

(z) In the case of the issuance of (i) options to purchase or rights to subscribe for Common Stock, (ii) securities by their terms convertible into or exchangeable for Common Stock, or (iii) options to purchase or rights to subscribe for such convertible or exchangeable securities:

- (1) the aggregate maximum number of shares of Common Stock deliverable upon exercise 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 subdivisions (x) and (y) above), if any, received by the corporation upon the issuance of such options or rights plus the minimum purchase price provided in such options or rights for the Common Stock covered thereby;
- (2) the aggregate maximum number of shares of Common Stock deliverable upon conversion of or in exchange 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 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 additional minimum consideration, if any, to be received by the corporation 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 subdivisions (x) and (y) above);
- (3) on any change in the number of shares of Common Stock deliverable upon exercise of any such options or rights or conversion of or exchange for such

convertible or exchangeable securities, or on any change in the minimum purchase price of such options, rights or securities, other than a change resulting from the antidilution provisions of such options, rights or securities, the Conversion Price shall forthwith be readjusted to such Conversion Price as would have obtained had the adjustment made upon (x) the issuance of such options, rights or securities not exercised, converted or exchanged prior to such change or (y) the options or rights related to such securities not converted or exchanged prior to such change, as the case may be, been made upon the basis of such change; and

- (4) on 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 shall forthwith be readjusted to such Conversion Price as would have obtained had the adjustment made upon the issuance of such options, rights, convertible or exchangeable securities or options or rights relate to such convertible or exchangeable securities, as the case may be, been made upon the basis of the issuance of only the number of shares of Common Stock actually issued upon the exercise of such options or rights, upon the conversion or exchange of such convertible or exchangeable securities or upon the exercise of the options or rights related to such convertible or exchangeable securities, as the case may be.

(ii) "Excluded Stock" shall mean:

(A) all shares of Common Stock issued and outstanding on the date this certificate is filed with the Secretary of State of the State of California;

(B) all shares of Common Stock into which shares of Series A and Series A Prime Preferred Stock are convertible;

(C) all shares of Common Stock, warrants or options to purchase Common Stock or other securities issued, upon approval of the board of directors, (i) to employees, officers, directors, scientific advisors and consultants of the corporation or (ii) licensors or corporate partners of the corporation;

(D) all securities issued to lending or leasing institutions upon the approval of the board of directors of the corporation;

(E) all shares of Common Stock, warrants or options to purchase Common Stock or other securities issued, upon the approval of the board of directors of the corporation, in connection with bona fide acquisitions, mergers or similar transactions; and

(F) warrants to purchase up to 2,755,000 shares of Series A Prime Preferred Stock, the shares of Series A Prime Preferred Stock issuable upon exercise thereof and the shares of Common Stock issuable upon conversion of such shares of Series A Prime Preferred Stock.

All outstanding shares of Excluded Stock (including shares issuable upon conversion of the Preferred Stock) shall be deemed to be outstanding for all purposes of the computations of Section IV4(e)(i) above.

(iii) If the number of shares of Common Stock outstanding at any time after the date hereof is increased by a stock dividend payable in shares of Common Stock or by a subdivision or split-up of shares of Common Stock, then, on the date such payment is made or such change is effective, the Conversion Price of Preferred Stock shall be appropriately decreased so that the number of shares of Common Stock issuable on conversion of any shares of Preferred Stock shall be increased in proportion to such increase of outstanding shares.

(iv) If the number of shares of Common Stock outstanding at any time after the date hereof is decreased by a combination of the outstanding shares of Common Stock, then, on the effective date of such combination, the Conversion Price of Preferred Stock shall be appropriately increased so that the number of shares of Common Stock issuable on conversion of any shares of Preferred Stock shall be decreased in proportion to such decrease in outstanding shares.

(v) In case, at any time after the date hereof, of any capital reorganization, or any reclassification of the stock of the corporation (other than as a result of a stock dividend or subdivision, split-up or combination of shares), or the consolidation or merger of the corporation with or into another person (other than a consolidation or merger in which the corporation is the continuing entity and which does not result in any change in the Common Stock or a consolidation or merger where Section 2 applies), the shares of Preferred Stock shall, after such reorganization, reclassification, consolidation, merger, sale or other disposition, be convertible into the kind and number of shares of stock or other securities or property of the corporation or otherwise to which such holder would have been entitled if immediately prior to such reorganization, reclassification, consolidation, merger, sale or other disposition such holder had converted its shares of Preferred Stock into Common Stock. The provisions of this clause (v) shall similarly apply to successive reorganizations, reclassifications, consolidations, mergers, sales or other dispositions.

(vi) All calculations under this Section 4 shall be made to the nearest cent or to the nearest one hundredth (1/100) of a share, as the case may be.

(vii) For the purpose of any computation pursuant to this Section IV4(e), the "Current Market Price" at any date of one share of Common Stock, shall be deemed to be the average of the highest reported bid and the lowest reported offer prices on the preceding business day as furnished by the National Quotation Bureau, Incorporated (or equivalent recognized source of quotations); provided, however, that if the Common Stock is not traded in such manner that the quotations referred to in this clause (vii) are available for the period required hereunder, Current Market Price shall be determined in good faith by the board of directors of the corporation.

(f) Minimal Adjustments. No adjustment in the Conversion Price for any series of Preferred Stock need be made if such adjustment would result in a change in the Conversion Price of less than \$0.01. Any adjustment of less than \$0.01 which is not made shall be carried forward and shall be made at the time of and together with any subsequent adjustment which, on a cumulative basis, amounts to an adjustment of \$0.01 or more in the Conversion Price.

(g) No Impairment. The corporation will not 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 Preferred Stock against impairment. This provision shall not restrict the corporation's right to amend its Articles of Incorporation with the requisite shareholder consent.

(h) Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the Conversion Rate for any series of Preferred Stock 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 such series of Preferred Stock 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 written request at any time of any holder of any series of Preferred Stock, furnish or cause to be furnished to such holder a like certificate setting forth (i) all such adjustments and readjustments, (ii) the Conversion Rate at the time in effect, and (iii) the number of shares of Common Stock and the amount, if any, of other property which at the time would be received upon the conversion of such holder's shares of Preferred Stock.

(i) Notices of Record Date and Proposed Liquidation Distribution. 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 Preferred Stock at least twenty (20) days prior to such record date, a notice specifying the date on which any such record is to be taken for the purpose of such dividend or distribution or right, and the amount and character of such dividend, distribution or right. In the event of a liquidation distribution pursuant to Section 2 hereof, the corporation shall mail to each holder of Preferred Stock at least twenty (20) days prior to the date of such distribution a notice (i) certifying as to (x) the anticipated aggregate proceeds available for distribution to holders of Preferred Stock and Common Stock, (y) the amount expected to be distributed pursuant to Section 2 in respect of each share of each outstanding series of Preferred Stock and each share of Common Stock and (z) the amount expected to be distributed pursuant to Section 2 in respect of each share of each outstanding series of Preferred Stock if the holder of each such share of Preferred Stock converted such share of Preferred Stock into Common Stock immediately prior to the liquidation distribution and (ii) stating that in connection with such liquidation distribution the holders of shares

of each series of Preferred Stock may prior to such liquidation distribution convert their shares of such series of Preferred Stock into Common Stock at the applicable Conversion Rate for such series.

(j) Notices. Any notice required by the provisions of this Section 4 to be given to the holders of shares of the Preferred Stock shall be deemed given upon personal delivery, upon delivery by nationally recognized courier or three business days after deposit in the United States mail, postage prepaid, and addressed to each holder of record at such holder's address appearing on the corporation's books.

(k) 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 Preferred Stock 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 Preferred Stock; 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 Preferred Stock, 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 purpose.

(l) Reissuance of Converted Shares. No shares of Preferred Stock which have been converted into Common Stock after the original issuance thereof shall ever again be reissued and all such shares so converted shall upon such conversion cease to be a part of the authorized shares of the corporation.

5. Protective Provisions. In addition to any other rights provided by law, so long as at least 1,000,000 shares of Preferred Stock shall be outstanding (adjusted for any subsequent stock splits, combinations, stock dividends, reclassifications or recapitalizations), this corporation shall not, without first obtaining the affirmative vote or written consent of the holders of not less than a majority of the outstanding shares of the Preferred Stock, voting together as a single class:

(a) adversely alter or change the rights, preferences or privileges of the Preferred Stock;

(b) create (by amendment of the Articles of Incorporation, reclassification, certificate of designation or otherwise) any new class or series of shares having rights, preferences or privileges senior to or on a parity with the Preferred Stock;

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

(d) consummate a merger, corporate reorganization, or any transaction in which all or substantially all of the assets of the corporation are sold, or in which transaction the corporation's shareholders immediately prior to such transaction own immediately after such transaction less than 50% of the equity securities of the surviving corporation or its parent;

- (e) reclassify or recapitalize the capital stock of the corporation;
 - (f) voluntarily dissolve or liquidate the corporation;
 - (g) amend or waive any provision of the corporation's Articles of Incorporation or Bylaws;
 - (h) increase or decrease the authorized size of the corporation's board of directors;
 - (i) declare or pay any dividend or distribution to the holders of Common Stock;
- or

(j) redeem, purchase or otherwise acquire (or pay into or set aside for a sinking fund for such purpose) any shares of Common Stock; provided, however, that this restriction shall not apply to the repurchase of shares of Common Stock from employees, officers, directors, advisors, consultants or other persons performing services for the corporation or any subsidiary pursuant to agreements under which the corporation has the option to repurchase such shares at cost upon the occurrence of certain events, such as the termination of employment.

6. Residual Rights. All rights accruing to the outstanding shares of the corporation not expressly provided for to the contrary herein shall be vested with the Common Stock.

V

1. Limitation of Directors' Liability. The liability of the directors of this corporation for monetary damages shall be eliminated to the fullest extent permissible under California law.

2. Indemnification of Corporate Agents. This corporation is authorized to indemnify the directors and officers of the corporation to the fullest extent permissible under California law.

3. Repeal or Modification. Any repeal or modification of the foregoing provisions of this Article V by the shareholders of the corporation shall not adversely affect any right or protection of a director of the corporation existing at the time of such repeal or modification.