

State of Delaware  
Secretary of State  
Division of Corporations  
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N4-4

AMENDED AND RESTATED  
CERTIFICATE OF INCORPORATION  
OF

ARCADIAN NETWORKS, INC.

Arcadian Networks, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), hereby certifies as follows:

(1) The name of the Corporation is Arcadian Networks, Inc.

(2) The name under which the Corporation was originally incorporated was Arcadian Networks, Inc. and the original Certificate of Incorporation of the Corporation was filed with the Secretary of State of the State of Delaware on September 28, 2005.

(3) This Restated Certificate of Incorporation was duly adopted in accordance with the provisions of Sections 228, 242 and 245 of the General Corporation Law of the State of Delaware.

(4) The text of the Certificate of Incorporation of the Corporation as amended hereby is restated to read in its entirety, as follows:

FIRST: The name of the Corporation is Arcadian Networks, Inc. (hereinafter, the "Corporation").

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

THIRD: The purpose of the Corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corpora-

tion Law of the State of Delaware as set forth in Title 8 of the Delaware Code (the "GCL").

**FOURTH:** The total number of shares which the Corporation shall have authority to issue is 273,148,556 shares, of which the Corporation shall have the authority to issue 198,148,556 shares of Common Stock, each having a par value of \$0.0001 (the "Common Stock"), and 75,000,000 shares of Preferred Stock, each having a par value of \$0.001 (the "Preferred Stock").

Upon the filing and effectiveness of this Amended and Restated Certificate of Incorporation of the Corporation pursuant to the General Corporation Law of the State of Delaware (the "Effective Time"), each one share of the Corporation's Common Stock, issued and outstanding immediately prior to the Effective Time (the "Old Common Stock") shall automatically be subdivided into seven hundred and fifty (750) validly issued, fully paid, and non-assessable shares of Common Stock (totaling 75,000,000 shares of Common Stock), without any action by the holder thereof (the "Reclassification").

Each stock certificate that, immediately prior to the Effective Time, represented shares of Old Common Stock shall, from and after the Effective Time, automatically and without the necessity of presenting the same for exchange, represent that number of whole shares of Common Stock into which the shares of Old Common Stock represented by such certificate shall have been reclassified, provided, however, that each holder of record of a certificate that represented shares of Old Common Stock shall receive, upon surrender of such certificate, a new certificate representing the number of whole shares of Common Stock into which the shares of Old Common Stock represented by such certificate shall have been reclassified.

The Board of Directors is expressly authorized to provide for the issuance of all or any shares of the Preferred Stock in one or more classes or series, and to fix for each such class or series such voting powers, full or limited, or no voting powers, and such distinctive designations, preferences and relative, participating, optional or other special rights and such qualifications, limitations or restrictions thereof, as shall be stated and expressed in the resolution or resolutions adopted by the Board of Directors providing for the issuance of such class or series and as may be permitted by the GCL, including, without limitation, the authority to provide that any such class or series may be (i) subject to redemption at such time or times and at such price or prices; (ii) entitled to receive dividends (which may be cumulative or non-cumulative) at such rates, on such conditions, and at such times, and payable in preference to, or in such relation to, the dividends payable on any other class or

classes or any other series; (iii) entitled to such rights upon the dissolution of, or upon any distribution of the assets of, the Corporation; or (iv) convertible into, or exchangeable for, shares of any other class or classes of stock, or of any other series of the same or any other class or classes of stock, of the Corporation at such price or prices or at such rates of exchange and with such adjustments; all as may be stated in such resolution or resolutions.

FIFTH: The following provisions are inserted for the management of the business and the conduct of the affairs of the Corporation, and for further definition, limitation and regulation of the powers of the Corporation and of its directors and stockholders:

- (1) The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors.
- (2) The directors shall have concurrent power with the stockholders to make, alter, amend, change, add to or repeal the By-Laws of the Corporation.
- (3) The number of directors of the Corporation shall be as from time to time fixed by, or in the manner provided in, the By-Laws of the Corporation. Election of directors need not be by written ballot unless the By-Laws so provide.
- (4) In addition to the powers and authority hereinbefore or by statute expressly conferred upon them, the directors are hereby empowered to exercise all such powers and do all such acts and things as may be exercised or done by the Corporation, subject, nevertheless, to the provisions of the GCL, this Certificate of Incorporation, and any By-Laws adopted by the stockholders; provided, however, that no By-Laws hereafter adopted by the stockholders shall invalidate any prior act of the directors which would have been valid if such By-Laws had not been adopted.

SIXTH: Meetings of stockholders may be held within or without the State of Delaware, as the By-Laws may provide. The books of the Corporation may be kept (subject to any provision contained in the GCL) outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the By-Laws of the Corporation.

**SEVENTH:** The Corporation shall indemnify its directors and officers to the fullest extent authorized or permitted by law, as now or hereafter in effect, and such right to indemnification shall continue as to a person who has ceased to be a director or officer of the Corporation and shall inure to the benefit of his or her heirs, executors and personal and legal representatives; provided, however, that, except for proceedings to enforce rights to indemnification, the Corporation shall not be obligated to indemnify any director or officer (or his or her heirs, executors or personal or legal representatives) in connection with a proceeding (or part thereof) initiated by such person unless such proceeding (or part thereof) was authorized or consented to by the Board of Directors. The right to indemnification conferred by this Article SEVENTH shall include the right to be paid by the Corporation the expenses incurred in defending or otherwise participating in any proceeding in advance of its final disposition.

The Corporation may, to the extent authorized from time to time by the Board of Directors, provide rights to indemnification and to the advancement of expenses to employees and agents of the Corporation similar to those conferred in this Article SEVENTH to directors and officers of the Corporation.

The rights to indemnification and to the advance of expenses conferred in this Article SEVENTH shall not be exclusive of any other right which any person may have or hereafter acquire under this Certificate of Incorporation, the By-Laws of the Corporation, any statute, agreement, vote of stockholders or disinterested directors or otherwise.

Any repeal or modification of this Article SEVENTH by the stockholders of the Corporation shall not adversely affect any rights to indemnification and to the advancement of expenses of a director or officer of the Corporation existing at the time of such repeal or modification with respect to any acts or omissions occurring prior to such repeal or modification.

**EIGHTH:** No director or stockholder of the Corporation, in such capacity, shall have any obligation to the Corporation to refrain from competing with the Corporation, making investments in competing businesses or otherwise engaging in any commercial activity that competes with the Corporation. The Corporation shall not have any right, interest or expectancy with respect to any such particular investments or activities undertaken by any of its directors or stockholders, such investments or activities shall not be deemed wrongful or improper, and no such director or stockholder shall be obligated to communicate, offer or present any potential transaction, matter or opportunity to the Corporation even if such potential

transaction, matter or opportunity is of a character that, if presented to the Corporation, could be taken by the Corporation, so long as such transaction, matter or opportunity did not arise by virtue of the director being a member of the Board of Directors or an officer or an employee of the Corporation. In furtherance of the foregoing, the Corporation renounces any interest or expectancy in, or in being offered the opportunity to participate in, any corporate opportunity covered by, but not allocated to it pursuant to, this Article EIGHTH to the fullest extent permitted by Section 122(17) of the DGCL (or any successor provision).

NINTH: The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

IN WITNESS WHEREOF, Arcadian Networks, Inc. has cause this Amended and Restated Certificate of Incorporation to be executed in its corporate name on this 7th day of April 2006.

[Execution Page Follows]

State of Delaware  
Secretary of State  
Division of Corporations  
Delivered 09:57 AM 04/07/2006  
FILED 09:58 AM 04/07/2006  
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**CERTIFICATE OF THE DESIGNATIONS,  
POWERS, PREFERENCES AND RIGHTS  
OF  
SERIES A CONVERTIBLE PREFERRED STOCK  
OF  
ARCADIAN NETWORKS, INC.**

(Pursuant to Section 151 of the  
Delaware General Corporation Law)

Arcadian Networks, Inc., a Delaware corporation (the "Company"), hereby certifies that the following resolution was adopted by the Board of Directors of the Company:

"RESOLVED, that pursuant to the authority expressly granted to and vested in the Board of Directors of the Company (the "Board of Directors") by the provisions of the Restated Certificate of Incorporation of the Company (the "Certificate of Incorporation"), there is hereby created, out of the 75,000,000 shares of preferred stock, par value \$0.001 per share, of the Company authorized in Article Fourth of the Certificate of Incorporation (the "Preferred Stock"), a series of the Preferred Stock consisting of 75,000,000 shares, which series shall have the following powers, designations, preferences and relative, participating, optional or other rights, and the following qualifications, limitations and restrictions (in addition to any powers, designations, preferences and relative, participating, optional or other rights, and any qualifications, limitations and restrictions, set forth in the Certificate of Incorporation which are applicable to the Preferred Stock):

**Section 1.     Designation of Amount.**

The shares of Preferred Stock created hereby shall be designated the "Series A Convertible Preferred Stock" (the "Series A Preferred Stock") and the authorized number of shares constituting such series shall be 75,000,000.

**Section 2.     Dividends.**

(a) In the event any dividends are declared or paid or any other distribution is made on or with respect to the common stock, par value \$0.0001 per share ("Common Stock"), of the Company, the holders of the Series A Preferred Stock as of the record date established by the Board of Directors for such dividend or distribution on the Common Stock shall be entitled to receive dividends in an amount (whether in the form of cash, securities or other property) equal to the amount (and in the form) of the dividends or

distribution that such holder would have received had the Series A Preferred Stock been converted into Common Stock as of the date immediately prior to the record date for such dividend or distribution on the Common Stock, such dividends to be payable on the same payment date established by the Board of Directors for the payment of such dividend or distribution on the Common Stock; provided, however, that if the Company declares or pays a dividend or makes a distribution on the Common Stock consisting in whole or in part of Common Stock, then no such dividend shall be payable in respect of the Series A Preferred Stock on account of the portion of such dividend or distribution on the Common Stock payable in Common Stock and in lieu thereof the anti-dilution adjustment in Section 5(e)(3) below shall apply. The record date for any such dividends shall be the record date for the applicable dividend or distribution on the Common Stock, and any such dividends shall be payable to the Persons in whose name the Series A Preferred Stock is registered at the close of business on the applicable record date. The term "Original Issuance Date" means April 7, 2006.

(b) No dividend shall be paid or declared on any share of Common Stock (other than dividends payable in Common Stock), unless a dividend, payable in the same consideration and manner, is simultaneously paid or declared, as the case may be, on each share of Series A Preferred Stock in an amount determined as set forth above. For purposes hereof, the term "dividends" shall include any pro rata distribution by the Company of cash, property, securities (including, but not limited to, rights, warrants or options) or other property or assets to the holders of the Common Stock, whether or not paid out of capital, surplus or earnings, other than a distribution upon liquidation of the Company in accordance with Section 3 hereof.

(c) Prior to declaring any dividend or making any distribution on or with respect to shares of Common Stock, the Company shall take all prior corporate action necessary to authorize the issuance of any securities payable as a dividend in respect of the Series A Preferred Stock.

### Section 3. Liquidation Preference.

(a) In the event of a liquidation, dissolution or winding up of the Company, whether voluntary or involuntary (a "Liquidation"), the holders of the Series A Preferred Stock then outstanding shall be entitled to receive out of the available assets of the Company, whether such assets are stated capital or surplus of any nature, an amount on such date equal to the Purchase Price, plus the amount of any accrued and unpaid dividends as of such date, calculated pursuant to Section 2 (the "Liquidation Preference"). Such payment shall be made before any payment shall be made or any assets distributed to the holders of any class or series of the Common Stock or any other class or series of the Company's capital stock ranking junior as to liquidation rights to the Series A Preferred Stock. Following payment to the holders of the Series A Preferred Stock of the full preferential amounts described in the first sentence of this Section 3(a), the remaining assets (if any) of the Company available for distribution to stockholders of the Company

shall be distributed, subject to the rights of the holders of shares of any other series of Preferred Stock ranking prior to the Common Stock as to distributions upon Liquidation, pro rata among (i) the holders of the then outstanding shares of Series A Preferred Stock (as if the Series A Preferred Stock had been converted into Common Stock as of the date immediately prior to the date fixed for determination of stockholders entitled to receive such distribution) and (ii) the holders of the Common Stock and any other shares of capital stock of the Company ranking on a parity with the Common Stock as to distributions upon Liquidation. In the event that the aggregate amount paid to all of the holders of Company Common Stock on an as-converted basis upon a Liquidation would be greater than \$450,000,000, then the holders of the Series A Preferred Stock shall, in lieu of the foregoing, be entitled to receive the amount they would be entitled to receive as if the Series A Preferred Stock had been converted into Common Stock as of the date immediately prior to the date fixed for determination of stockholders entitled to receive a distribution in such Liquidation. If upon any Liquidation the assets available for payment of the Liquidation Preference are insufficient to permit the payment to the holders of the Series A Preferred Stock of the full preferential amounts described in this paragraph, then all the remaining available assets shall be distributed among the holders of the then outstanding Series A Preferred Stock pro rata according to the number of then outstanding shares of Series A Preferred Stock held by each holder thereof. For purposes of this Section 3, a liquidation, dissolution or winding up of this Company shall be deemed to be occasioned by, or to include, unless the holders of at least 66 2/3% of the outstanding shares of Series A Preferred Stock elect otherwise by written consent to the Company at least 10 days prior to the effective date of any such event: (A) the acquisition of this Company by another entity by means of any transaction or series of related transactions with this Company (including, without limitation, any stock purchase, reorganization, merger or consolidation but, excluding any merger effected exclusively for the purpose of changing the domicile of this Company); (B) the sale, lease or other disposition, in a single transaction or series of related transactions, by the Company or any subsidiary of the Company of all or substantially all the assets of the Company and its subsidiaries taken as a whole, or the sale or disposition (whether by merger or otherwise) of one or more subsidiaries of the Company if substantially all of the assets of the Company and its subsidiaries taken as a whole are held by such subsidiary or subsidiaries, except where such sale, lease or other disposition is to a wholly owned subsidiary of the Company; or (C) any other transaction which results in the disposition of 50% or more of the voting power of all classes of capital stock of this Company unless this Company's stockholders of record as constituted immediately prior to such acquisition or sale will, immediately after such acquisition or sale (solely by virtue of securities issued as consideration for this Company's acquisition or sale or otherwise) hold at least 50% of the voting power of the surviving or acquiring entity.

(b) The amount deemed paid or distributed to the holders of capital stock of the Company upon any such merger, consolidation, sale, transfer or other disposition shall be, if paid or distributed in cash, the cash or, if the amount is not paid or distributed in cash, the value of the property, rights or securities paid or distributed to such holders by the Company or the acquiring person, firm or other entity. The value of such property, rights or securities shall be valued at their Fair Market Value.



Section 4. Voting Rights.

(a) Except as otherwise provided by applicable law and in addition to any voting rights provided by law, and subject to Section 4(b) of this Certificate of Designations, the holders of outstanding shares of the Series A Preferred Stock:

(i) shall be entitled to vote together with the holders of the Common Stock as a single class on all matters submitted for a vote of holders of Common Stock;

(ii) shall have such other voting rights as are specified in the Certificate of Incorporation or as otherwise provided by Delaware law; and

(iii) shall be entitled to receive notice of any stockholders' meeting in accordance with the Certificate of Incorporation and bylaws of the Company.

For purposes of the voting rights set forth in this Section 4(a), each share of Series A Preferred Stock shall entitle the holder thereof to cast one vote for each whole vote that such holder would be entitled to cast had such holder converted its Series A Preferred Stock into shares of Common Stock as of the date immediately prior to the record date for determining the stockholders of the Company eligible to vote on any such matter.

(b) The Board of Directors shall consist of seven members. So long as the shares of Series A Preferred Stock represent at least fifteen percent (15%) of the total issued and outstanding shares of the Company on an as-converted basis remain outstanding, the holders of Series A Preferred Stock shall have the exclusive right, voting separately as a single class, to elect two members of the Board of Directors of which one shall be designated by Goldman Sachs. (such directors are referred to as "Preferred Stock Directors"), provided, that, in the event that the number of shares of Series A Preferred Stock represents less than fifteen percent (15%) of the total issued and outstanding shares of the Company on an as-converted basis but greater than five percent (5%) of the total issued and outstanding shares of the Company on an as-converted basis, then the holders of Series A Preferred Stock shall have the exclusive right, voting separately as a single class, to elect one member of the Board of Directors which shall be designated by Goldman Sachs. The holders of Common Stock shall have the exclusive right, voting separately as a single class (for this purpose only, without the holders of Series A Preferred Stock), to elect the remaining members of the Board of Directors (the "Common Stock Directors"). In any such election, the holders of Series A Preferred Stock shall be entitled to cast one vote per share of Series A Preferred Stock held of

record on the record date for the determination of the holders of Series A Preferred Stock entitled to vote on such election. The Preferred Stock Directors shall be elected at the same time as other members of the Board of Directors. A Preferred Stock Director or Common Stock Director may only be removed by the vote of the holders of a majority of the Series A Preferred Stock or Common Stock, as the case may be, at a vote of the then outstanding shares of Series A Preferred Stock or Common Stock, as the case may be, voting as a single class, at a meeting called for such purpose (or by written consent in lieu of such a meeting). If for any reason a Preferred Stock Director or Common Stock Director shall resign or otherwise be removed from the Board of Directors, then his or her replacement shall be a Person elected by the holders of the Series A Preferred Stock or Common Stock, as the case may be, in accordance with the voting procedures set forth in this Section 4(b). The Preferred Stock Director(s) and Common Stock Directors shall be appointed by the Board of Directors to serve on each committee of the Board of Directors at least in the same proportions that the number of Preferred Stock Director(s) and Common Stock Director bears to the total number of directors then comprising the entire Board of Directors.

(c) So long as the holders of the Series A Preferred Stock are entitled to elect a Preferred Stock Director, the Company will not, without approval of the Board of Directors, which approval must include the affirmative vote of the Preferred Stock Director(s):

(i) make, or permit any subsidiary to make, any loan or advance to, or own any stock or other securities of, any subsidiary or other corporation, partnership, or other entity unless it is wholly owned by the Company;

(ii) make, or permit any subsidiary to make, any loan or advance to any Person (other than permitted Equipment Financing);

(iii) guarantee, directly or indirectly, or permit any subsidiary to guarantee, directly or indirectly, any indebtedness except for trade accounts or Equipment Financing of the Company or any subsidiary arising in the ordinary course of business;

(iv) make any investment in a manner and for a purpose inconsistent with any investment policy approved by majority vote of the Board of Directors;

(v) incur any aggregate indebtedness (other than Equipment Financing, trade credit and other indebtedness incurred in the ordinary course of business) in excess of \$50,000;

(vi) otherwise enter into or be a party to any transaction with any director or officer of the Company or any "affiliate" (as defined in Rule 12b-2 promulgated under the Exchange Act) of any such Person;

(vii) hire, terminate or materially change the compensation of the Chief Financial Officer and General Counsel of the Company, including approving any option grants or stock awards to executive officers;

(viii) change the principal business of the Company, enter new lines of business, or exit the current line of business;

(ix) sell, assign, license, pledge, or encumber material technology or intellectual property, other than licenses granted in the ordinary course of business;

(x) enter into any corporate strategic relationship after the Closing outside the ordinary course of business involving the payment, contribution, or assignment by the Company or to the Company of money or assets greater than \$250,000; or

(xi) approve and adopt any stock option plan or any other similar equity or other incentive plans.

(d) So long as at least 20% of the Series A Preferred Stock issued on the effective date of this Certificate of Designations remains outstanding, the Company shall not, without the prior written consent of at least 66⅔% of the holders of the Series A Preferred Stock, either directly or by amendment, merger, consolidation or otherwise:

(i) change the rights, preferences or privileges of the Preferred Stock or otherwise amend, alter or repeal the Certificate of Incorporation or Bylaws of the Company or any provisions thereof in manner that adversely affects the rights and preferences of the Series A Preferred Stock;

(ii) merge, consolidate, or amalgamate or sell all or substantially all of the Company's assets with or to any Person, except where the Company's stockholders of record as constituted immediately prior to such merger, consolidation or amalgamation will, immediately after such transaction (solely by virtue of securities issued as consideration

for this Company's acquisition or sale or otherwise) hold at least 50% of the voting power of the surviving or acquiring entity;

(iii) effect, approve or authorize any Liquidation of the Company or any recapitalization or reorganization of the Company or any Subsidiary;

(iv) create, or authorize the creation of, or issue or obligate itself to issue shares of, any additional class or series of capital stock with rights, preferences or privileges superior to or pari passu with, or materially affecting, the Series A Preferred Stock;

(v) increase or decrease the authorized number of shares of Series A Preferred Stock;

(vi) grant rights, privileges or protections to any stockholder in addition to, or on terms more favorable than, those afforded to the holders of Series A Preferred Stock;

(vii) purchase or redeem (or permit any subsidiary to purchase or redeem) or declare or pay any dividend or make any other distribution in respect thereof, any shares of capital stock of the Company;

(viii) create, or authorize the creation of, or issue, or authorize the issuance of any debt security, or permit any subsidiary to take any such action with respect to any debt security, provided, however, that the Company shall be permitted to obtain equipment financing ("Equipment Financing") from unaffiliated third parties in arm's-length transactions in accordance with industry practices without any such approval;

(ix) create, or hold capital stock in, any subsidiary that is not wholly owned (either directly or through one or more other subsidiaries) by the Company, or sell, transfer or otherwise dispose of any capital stock of any direct or indirect subsidiary of the Company, or permit any direct or indirect subsidiary to sell, lease, transfer, exclusively license or otherwise dispose (in a single transaction or a series of related transactions) of all or substantially all of the assets of such subsidiary;

(x) increase or decrease the authorized number of directors constituting the Board of Directors to more than seven (7) in total;

(xi) increase the size of the Option Pool to more than 15,663,918 shares of Common Stock; or

(xii) agree to take any of the actions set forth above.

**Section 5. Conversion Rights.**

(a) General. Subject to and upon compliance with the provisions of this Section 5, the holders of the shares of Series A Preferred Stock shall be entitled, at their option, at any time to convert all or any such shares of Series A Preferred Stock into a number of fully paid and non-assessable shares (calculated as to each conversion to the nearest 1/100,000th of a share) of Common Stock. The number of shares of Common Stock to which a holder of Series A Preferred Stock shall be entitled upon conversion shall be determined by dividing (x) the Liquidation Preference by (y) the Conversion Price in effect at the close of business on the Conversion Date (determined as provided in this Section 5).

(b) Automatic Conversion. Each and every share of Series A Preferred Stock held by all holders of Series A Preferred Stock (whether or not so electing) shall automatically convert into fully paid and non-assessable shares of Common Stock, immediately upon the closing of a Qualifying IPO (the "Automatic Conversion Date"). The number of shares of Common Stock (calculated as to each conversion to the nearest 1/100,000th of a share) to which a holder of Series A Preferred Stock shall be entitled upon such automatic conversion shall be determined by dividing (x) the Liquidation Preference by (y) the Conversion Price in effect at the close of business on the Automatic Conversion Date.

(c) Conversion Price. The conversion price (the "Conversion Price") shall initially be \$1.00, subject to adjustment from time to time in accordance with Section 5(e).

(d) Fractions of Shares. Unless the holder of shares of Series A Preferred Stock being converted specifies otherwise, the Company may issue fractional shares of Common Stock (carried out to seven decimal places) upon conversion of shares of Series A Preferred Stock. If more than one share of Series A Preferred Stock shall be surrendered for conversion at one time by the same holder, the number of full shares of Common Stock to be issued shall be computed on the basis of the aggregate number of shares of Series A Preferred Stock so surrendered. Instead of any fractional shares of Common Stock which would otherwise be issuable upon conversion of any shares of Series A Preferred Stock, the Company may pay a cash adjustment in respect of such fractional share in an amount equal to the product of such fraction multiplied by the Fair Market Value of one share of Common Stock on the Conversion Date or the Automatic Conversion Date, as the case may be.

(e) Adjustments to Conversion Price. The Conversion Price shall be subject to adjustment from time to time as follows:

(1) Upon Issuance of Common Stock. If the Company shall, at any time or from time to time after the Original Issuance Date, issue any shares of Common Stock, Options or Convertible Securities, other than Excluded Stock (collectively, "Additional Shares of Common Stock") ~~without consideration or for consideration per share less than the Conversion Price in effect immediately prior~~ to the issuance of such Additional Shares of Common Stock, then such Conversion Price shall forthwith be lowered to a price equal to the price obtained by multiplying:

- (a) the Conversion Price in effect immediately prior to the issuance of such Additional Shares of Common Stock by
- (b) a fraction of which (x) the numerator shall be the sum of (i) the number of shares of Common Stock outstanding on an as-converted, diluted basis immediately prior to such issuance and (ii) the number of Additional Shares of Common Stock which the aggregate consideration for the number of shares of Common Stock so issued would purchase at the Conversion Price in effect immediately prior to such issuance and (y) the denominator shall be the number of shares of Common Stock outstanding on an as-converted, diluted basis immediately after such issuance but prior to the adjustment under this provision.

For purposes of this Section 5(e), "diluted basis" shall mean diluted by any Options or Convertible Securities that have been issued but not exercised at the time of issuance of such of such Additional Shares of Common Stock.

(2) For the purposes of any adjustment of the Conversion Price pursuant to paragraph (1) of this Section 5(e), the following provisions shall be applicable:

(i) In the case of the issuance of Common Stock for cash in a public offering or private placement, the consideration shall be deemed to

be the amount of cash paid therefor before deducting therefrom any discounts, commissions or placement fees payable by the Company to any underwriter or placement agent in connection with the issuance and sale thereof.

(ii) 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.

(iii) In the case of the issuance of Options or Convertible Securities, or Options to purchase or rights to subscribe for such Convertible Securities (except for options to acquire Excluded Stock):

- (a) the aggregate maximum number of shares of Common Stock deliverable upon exercise of such Options shall be deemed to have been issued at the time such Options were issued and for a consideration equal to the consideration (determined in the manner provided in subparagraphs (i) and (ii) above), if any, received by the Company upon the issuance of such Options plus the minimum purchase price provided in such Options for the Common Stock covered thereby;
- (b) the aggregate maximum number of shares of Common Stock deliverable upon conversion of or in exchange for any such Convertible Securities or upon the exercise of Options to purchase or rights to subscribe for such Convertible Securities and subsequent conversion or exchange thereof shall be deemed to have been issued at the time such securities, options, or rights were issued and for a consideration equal to the consideration received by the Company for any such securities and related options or rights (excluding any cash received on account of accrued interest or accrued dividends), plus the additional consideration, if any, to be received by the Company upon the conversion or exchange of such Convertible Securities or the exercise of any related options or rights (the consideration in

each case to be determined in the manner provided in paragraphs (i) and (ii) above);

- (c) on any change in the number of shares or exercise price of Common Stock deliverable upon exercise of any such Options or conversions of or exchanges for such securities, other than a change resulting from the anti-dilution provisions thereof, the Conversion Price shall forthwith be readjusted to such Conversion Price as would have been obtained had the adjustment made upon the issuance of such Options not converted prior to such change or Options related to such securities not converted prior to such change been made upon the basis of such change;
- (d) upon the expiration of any Options which shall not have been exercised, the Conversion Price computed upon the original issue thereof (or upon the occurrence of a record date with respect thereto), and any subsequent adjustments based thereon, shall, upon such expiration, be recomputed as if the only additional shares of Common Stock issued were the shares of Common Stock, if any actually issued upon the exercise of such Options, and the consideration received therefor was the consideration actually received by the Company for the issue of the Options that were exercised, plus the consideration actually received by the Company upon such exercise; and
- (e) no further adjustment of the Conversion Price adjusted upon the issuance of any such Options, Convertible Securities or exchangeable securities shall be made as a result of the actual issuance of Common Stock on the exercise of any such Options or any conversion or exchange of any such securities.



(3) Upon Stock Dividends, Subdivisions or Splits. If, at any time after the Original Issuance Date, the number of shares of Common Stock outstanding 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, following the record date for the determination of holders of Common Stock entitled to receive such stock dividend, or to be affected by such subdivision or split-up, the Conversion Price shall be appropriately decreased by multiplying the Conversion Price by a fraction, the numerator of which is the number of shares of Common Stock outstanding immediately prior to such increase and the denominator of which is the number of shares of Common Stock outstanding immediately after such increase in outstanding shares.

(4) Upon Combinations or Reverse Stock Splits. If, at any time after the Original Issuance Date, the number of shares of Common Stock outstanding is decreased by a combination or reverse stock split of the outstanding shares of Common Stock into a smaller number of shares of Common Stock, then, following the record date to determine shares affected by such combination or reverse stock split, the Conversion Price shall be appropriately increased by multiplying the Conversion Price by a fraction, the numerator of which is the number of shares of Common Stock outstanding immediately prior to such decrease and the denominator of which is the number of shares of Common Stock outstanding immediately after such decrease in outstanding shares.

(5) Upon Reclassifications, Reorganizations, Consolidations or Mergers. In the event of any capital reorganization of the Company, any reclassification of the stock of the Company (other than a change in par value or from par value to no par value or from no par value to par value or as a result of a stock dividend or subdivision, split-up or combination of shares), or any consolidation or merger of the Company with or into another Person (where the Company is not the surviving Person or where there is a change in or distribution with respect to the Common Stock), each share of Series A Preferred Stock shall after such reorganization, reclassification, consolidation, or merger be convertible into the kind and number of shares of stock or other securities or property of the Company or of the successor Person resulting from such consolidation or surviving such merger, if any, to which the holder of the number of shares of Common Stock deliverable (immediately prior to the time of such reorganization, reclassification, consolidation or merger) upon conversion of such Series A Preferred Stock would have been entitled upon such reorganization, reclassification, consolidation or merger. The provisions of this clause shall similarly apply to successive reorganizations, reclassifications, consolidations, or mergers. The Company shall not effect any such reorganization, reclassification, consolidation or merger unless, prior to the consummation thereof, the successor Person (if other than the Company) resulting from such reorganization, reclassification, consolidation or merger, shall assume, by written instrument, the obligation to deliver to the holders of the Series A Preferred Stock such shares of

stock, securities or assets, which, in accordance with the foregoing provisions, such holders shall be entitled to receive upon such conversion.

(5) Deferral in Certain Circumstances. In any case in which the provisions of this Section 5(e) shall require that an adjustment shall become effective immediately after a record date of an event, the Company may defer until the occurrence of such event:

(i) issuing to the holder of any Series A Preferred Stock converted after such record date and before the occurrence of such event the shares of capital stock issuable upon such conversion by reason of the adjustment required by such event and issuing to such holder only the shares of capital stock issuable upon such conversion before giving effect to such adjustments, and

(ii) paying to such holder any amount in cash in lieu of a fractional share of capital stock pursuant to Section 5(d) above;

provided, however, that the Company shall deliver to such holder an appropriate instrument or due bills evidencing such holder's right to receive such additional shares or such cash.

(7) Exceptions. Section 5(e) shall not apply to: (i) any shares of Common Stock (1) issuable upon the conversion of shares of the Company's Series A Preferred Stock, (2) issuable upon exercise of the Warrant and (3) issued to the Company's financial advisors in connection with the offering of the Series A Preferred Stock; (ii) securities offered to the public pursuant to a Qualifying IPO; (iii) securities issued in connection with any stock split, subdivision or stock dividend in respect of which the adjustment provided for in Section 5(e)(4) hereof applies; (iv) securities issued (A) pursuant to an acquisition by the Company approved by the Board of Directors of any product, technology, know-how or business by merger, asset purchase, stock purchase or any other reorganization, provided that, the Company is the surviving corporation after such transaction, (B) to employees, directors or consultants of the Company pursuant to any option plan of the Company that has been approved by the Board of Directors of the Company, (C) to banks, landlords, lenders or equipment lessors in connection with debt financings approved by the Board of Directors, if approved by the Board of Directors and (D) to a strategic partner as an equity incentive, if approved by the Board of Directors, provided that, in the case of (A), (B), (C) and (D), any such issuances together do not in the aggregate exceed ten percent (10%) of the total outstanding shares at the time of issuance, on an as-converted, diluted basis (as defined in Section 5(e) above) (collectively, the "Excluded Stock").

(f) Exercise of Conversion Privilege.

(i) Except in the case of an automatic conversion pursuant to Section 5(b), in order to convert shares of Series A Preferred Stock, a holder must (A) surrender the certificate or certificates or, if the holder of such shares alleges that the certificate for such shares has been lost, stolen or destroyed, a lost certificate affidavit, evidencing such holder's shares of Series A Preferred Stock to be converted, duly endorsed in a form satisfactory to the Company, at the office of the Company and (B) notify the Company at such office that such holder elects to convert Series A Preferred Stock and the number of shares such holder wishes to convert. Such notice referred to in clause (B) above shall be delivered substantially in the following form:

**"NOTICE TO EXERCISE CONVERSION RIGHT"**

The undersigned, being a holder of the Series A Convertible Preferred Stock of Arcadian Networks, Inc. (the "Convertible Preferred Stock") irrevocably exercises the right to convert \_\_\_\_\_ outstanding shares of Convertible Preferred Stock on \_\_\_\_\_, \_\_\_\_\_, into shares of Common Stock of Arcadian Networks, Inc. in accordance with the terms of the shares of Convertible Preferred Stock, and directs that the shares issuable and deliverable upon the conversion be issued and delivered in the denominations indicated below to the registered holder hereof unless a different name has been indicated below.

Dated: [At least one Business Day prior to the date fixed for conversion]

Fill in for registration of  
shares of Common Stock  
if to be issued otherwise  
than to the registered  
holder:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Please print name and  
address, including postal  
code number

\_\_\_\_\_  
(Signature)

Denominations: \_\_\_\_\_ "

(ii) Except in the case of an automatic conversion pursuant to Section 5(b), Series A Preferred Stock shall be deemed to have been converted immediately prior to the close of business on the day (the "Conversion Date") of surrender of such shares of Series A Preferred Stock for conversion in accordance with the foregoing provisions. In the case of an automatic conversion pursuant to Section 5(b), such conversion shall occur automatically on the Automatic Conversion Date and without any further action by the holders of such shares and whether or not the certificates representing such shares are surrendered to the Company or its transfer agent. Upon the Conversion Date or the Automatic Conversion Date, as the case may be, the rights of the holders of such shares of Series A Preferred Stock as holder shall cease, and the Person or Persons entitled to receive the Common Stock issuable upon conversion shall be treated for all purposes as the record holder or holders of such Common Stock as and after such time. Upon the automatic conversion of the Series A Preferred Stock pursuant to Section 5(b), the Company shall promptly send written notice thereof, by registered or certified mail, return receipt requested and postage prepaid, by hand delivery or by overnight delivery, to each holder of record of Series A Preferred Stock at his or its address then shown on the records of the Company, which notice shall state that certificates evidencing shares of Series A Preferred Stock must be surrendered at the office of the Company (or of its transfer agent for the Common Stock, if applicable). Upon the occurrence of such automatic conversion of the Series A Preferred Stock, the holders of Series A Preferred Stock shall surrender the certificates representing such shares at the office of the Company or any transfer agent for the Series A Preferred Stock. Upon the conversion of the Series A Preferred Stock, the shares of Series A Preferred Stock so converted shall not be transferred on the books of the Company or be deemed to be outstanding for any purpose whatsoever and shall constitute only the right to receive such number of shares of Common Stock as may be issuable upon such conversion. As promptly as practicable on or after the Conversion Date or the Automatic Conversion Date (subject to Section 5(b)), as the case may be, the Company shall issue and shall deliver at any office or agency of the Company maintained for the surrender of Series A Preferred Stock a certificate or certificates for the number of full shares of Common Stock issuable upon conversion, together with payment in lieu of any fraction of a share, as provided in Section 5(d); provided, however, that, in the case of an automatic conversion pursuant to Section 5(b), the Company shall not be obligated to issue certificates evidencing the shares of Common Stock issuable upon such conversion unless certificates evidencing such shares of Series A Preferred Stock so converted are surrendered to the Company.

(iii) In the case of any certificate evidencing shares of Series A Preferred Stock which is converted in part only, upon such conversion the Company shall execute and deliver a new certificate representing an aggregate number of shares of Series A Preferred Stock equal to the unconverted portion of such certificate.

(g) Notice of Adjustment of Conversion Price. Whenever the Conversion Price is adjusted as herein provided: (i) the Company shall compute the adjusted Conversion Price in accordance with Section 5(e) and shall prepare a certificate signed by the Treasurer or Chief Financial Officer of the Company setting forth the adjusted Conversion Price and showing in reasonable detail the facts upon which such adjustment is based, and such certificate shall forthwith be filed at each office or agency maintained for such purpose or conversion of shares of Series A Preferred Stock; and (ii) a notice stating that the Conversion Price has been adjusted and setting forth the adjusted Conversion Price shall forthwith be prepared by the Company, and as soon as practicable after it is prepared, such notice shall be mailed by the Company at its expense to all holders at their last addresses as they shall appear in the stock register.

(h) Notice of Certain Corporate Action. In case: (i) the Company shall take an action or an event shall occur, that would require a Conversion Price adjustment pursuant to Section 5(e); or (ii) the Company shall grant to the holders of its Common Stock rights or warrants to subscribe for or purchase any shares of capital stock of any class; or (iii) of any reclassification of the Common Stock (other than a subdivision or combination of the outstanding shares of Common Stock), or of any consolidation, merger or share exchange to which the Company is a party and for which approval of any stockholders of the Company is required, or of the sale or transfer of all or substantially all of the assets of the Company; or (iv) of the voluntary or involuntary dissolution, liquidation or winding up of the Company; or (v) the Company or any Subsidiary shall commence a tender offer for all or a portion of the outstanding shares of Common Stock (or shall amend any such tender offer to change the maximum number of shares being sought or the amount or type of consideration being offered therefor); then the Company shall cause to be filed at each office or agency maintained for such purpose, and shall cause to be mailed to all holders at their last addresses as they shall appear in the stock register, at least 30 days prior to the applicable record, effective or expiration date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution or granting of rights or warrants, or, if a record is not to be taken, the date as of which the holders of Common Stock of record who will be entitled to such dividend, distribution, rights or warrants are to be determined, (y) the date on which such reclassification, consolidation, merger, share exchange, sale, transfer, dissolution, liquidation or winding up is expected to become effective, and the date as of which it is expected that holders of Common Stock of record shall be entitled to exchange their shares of Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, share exchange, sale, transfer, dissolution, liquidation or winding up, or (z) the date on which such tender offer commenced, the date on which such tender offer is scheduled to expire unless extended,

the consideration offered and the other material terms thereof (or the material terms of the amendment thereto). Such notice shall also set forth such facts with respect thereto as shall be reasonably necessary to indicate the effect of such action on the Conversion Price and the number, kind or class of shares or other securities or property which shall be deliverable or purchasable upon the occurrence of such action or deliverable upon conversion of the Series A Preferred Stock. Neither the failure to give any such notice nor any defect therein shall affect the legality or validity of any action described in clauses (i) through (v) of this Section 5(h).

(i) Company to Reserve Common Stock. The Company shall at all times reserve and keep available, free from preemptive rights, out of the authorized but unissued Common Stock or out of the Common Stock held in treasury, for the purpose of effecting the conversion of Series A Preferred Stock, the full number of shares of Common Stock then issuable upon the conversion of all outstanding shares of Series A Preferred Stock. Before taking any action that would cause an adjustment reducing the Conversion Price below the then par value (if any) of the shares of Common Stock deliverable upon conversion of the Series A Preferred Stock or that would cause the number of shares of Common Stock deliverable upon conversion of the Series A Preferred Stock to exceed (when taken together with all other outstanding shares of Common Stock) the number of shares of Common Stock that the Company is authorized to issue, the Company will take any corporate action that is necessary in order that the Company may validly and legally issue the full number of fully paid and non-assessable shares of Common Stock issuable upon conversion at such adjusted conversion price.

(j) Taxes on Conversions. The Company will pay any and all original issuance, transfer, stamp and other similar taxes that may be payable in respect of the issue or delivery of shares of Common Stock on conversion of Series A Preferred Stock pursuant hereto. The Company shall not, however, be required to pay any tax which may be payable in respect of any transfer involved in the issue and delivery of shares of Common Stock in a name other than that of the holder of the share(s) of Series A Preferred Stock to be converted, and no such issue or delivery shall be made unless and until the Person requesting such issue has paid to the Company the amount of any such tax, or has established to the reasonable satisfaction of the Company that such tax has been or will be paid.

(k) Cancellation of Converted Series A Preferred Stock. All Series A Preferred Stock delivered for conversion shall be delivered to the Company to be canceled.

(l) Protection of Rights of Series A Preferred Stock. The Company will not, by amendment of its Certificate of Incorporation or through any reorganization, recapitalization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Company,

but will at all times in good faith assist in the carrying out of all the provisions of this Section 5 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 A Preferred Stock against impairment.

Section 6. Certain Definitions. The following terms shall have the following respective meanings herein:

"Affiliate" of any Person means any other Person which directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person. The term "control" (including the terms "controlling," "controlled by" and "under common control with") as used with respect to any Person means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise.

"Appraisal Procedure" means the following procedure to determine the fair market value, as to any security, for purposes of the definition of "Fair Market Value" or the fair market value, as to any other property (in either case, the "Valuation Amount"). The Valuation Amount shall be determined in good faith jointly by the Board of Directors and holders of more than 50% of the issued and outstanding shares of Series A Preferred Stock (the "Majority Holder"); provided, however, that if such parties are not able to agree on the Valuation Amount within a reasonable period of time (not to exceed twenty (20) Business Days), the Valuation Amount shall be determined by an investment banking firm of national reputation, which firm shall be reasonably acceptable to the Board of Directors and the Majority Holder. If the Board of Directors and the Majority Holder are unable to agree upon an acceptable investment banking firm within ten (10) days after the date either party proposed that one be selected, the investment banking firm will be selected by an arbitrator located in New York City, New York, selected by the American Arbitration Association (or if such organization ceases to exist, the arbitrator shall be chosen by a court of competent jurisdiction). The arbitrator shall select the investment banking firm (within ten (10) days of his appointment) from a list, jointly prepared by the Board of Directors and the Majority Holder, of not more than six investment banking firms of national reputation in the United States, of which no more than three may be named by the Board of Directors and no more than three may be named by the Majority Holder. The arbitrator may consider, within the ten-day period allotted, arguments from the parties regarding which investment banking firm to choose, but the selection by the arbitrator shall be made in its sole discretion from the list of six. The Board of Directors and the Majority Holder shall submit their respective valuations and other relevant data to the investment banking firm, and the investment banking firm shall, within thirty days of its appointment, make its own determination of the Valuation Amount. The determination of the final Valuation Amount by such investment banking firm shall be final and binding upon the parties. The Company shall pay all of the fees and expenses of the investment banking firm and arbitrator (if any) used to determine the

Valuation Amount. If required by any such investment banking firm or arbitrator, the Company shall execute a retainer and engagement letter containing reasonable terms and conditions, including, without limitation, customary provisions concerning the rights of indemnification and contribution by the Company in favor of such investment banking firm or arbitrator and its officers, directors, partners, employees, agents and Affiliates.

"\$" shall mean freely transferable lawful currency of the United States of America.

"Approved Option Plan" means a stock option plan, effective as of the Initial Closing, providing for the grant of options (the "Option Pool") to exercise 18,140,032 shares of Common Stock, reserved for issuance to the Company's employees, directors, officers and consultants.

"Automatic Conversion Date" has the meaning assigned to it in Section 5(b) hereof.

"Board of Directors" has the meaning assigned to it in the introductory paragraph.

"Business Day" means any day that is not a Saturday or Sunday or a day on which banks are required or permitted to be closed in the State of New York.

"Certificate of Designations" means this certificate of the designations, powers, preferences and rights of the Series A Convertible Preferred Stock of the Company filed with the Delaware Secretary of State on April 7, 2006.

"Certificate of Incorporation" has the meaning assigned to it in the introductory paragraph.

"Common Stock" has the meaning assigned to it in Section 2(a) hereof.

"Common Stock Directors" has the meaning assigned to it in Section 4(b) hereof.

"Company" has the meaning assigned to it in the introductory paragraph.

"Conversion Date" has the meaning assigned to it in Section 5(f)(ii) hereof.

"Conversion Price" has the meaning assigned to it in Section 5(c) hereof.



**"Convertible Securities"** means any evidence of indebtedness, shares (other than Common Stock) or other securities convertible into or exchangeable for Common Stock.

**"Equipment Financing"** means any financing obtained by the Company from unaffiliated third-parties in arm's-length transactions in accordance with industry practices.

**"Exchange Act"** means the Securities Exchange Act of 1934, as amended.

**"Excluded Stock"** has the meaning assigned to it in Section 5(e)(7) hereof.

**"Fair Market Value"** means, as to any security, the Twenty Day Average of the average closing prices of such security's sales on all domestic securities exchanges on which such security may at the time be listed, or, if there have been no sales on any such exchange on any day, the average of the highest bid and lowest asked prices on all such exchanges at the end of such day, or, if on any day such security is not so listed, the average of the representative bid and asked prices quoted on The Nasdaq National Market System as of 4:00 P.M., New York City time, on such day, or, if on any day such security is not quoted on The Nasdaq National Market System, the average of the highest bid and lowest asked prices on such day in the domestic over-the-counter market as reported by the National Quotation Bureau, Incorporated, or any similar or successor organization (and in each such case excluding any trades that are not bona fide, arm's length transactions). If at any time such security is not listed on any domestic securities exchange or quoted on The Nasdaq National Market System or the domestic over-the-counter market, the "Fair Market Value" of such security shall be the fair market value thereof as determined in accordance with the Appraisal Procedure, using any appropriate valuation method, assuming an arms-length sale to an independent party. In determining the Fair Market Value of any class or series of Common Stock, a sale of all of the issued and outstanding Common Stock will be assumed, without giving regard to the lack of liquidity of such stock due to any restrictions (contractual or otherwise) applicable thereto or any discount for minority interests and assuming the conversion or exchange of all securities then outstanding that are convertible into or exchangeable for Common Stock and the exercise of all rights and warrants then outstanding and exercisable to purchase shares of such stock or securities convertible into or exchangeable for shares of such stock; provided, however, that such assumption will not include those securities, rights and warrants convertible into Common Stock where the conversion, exchange or exercise price per share is greater than the Fair Market Value; provided, further, however, that Fair Market Value shall be determined with regard to the relative priority of each class or series of Common Stock (if more than one class or series exists). "Fair Market Value" means with respect to property other than securities, the "fair market value" determined in accordance with the Appraisal Procedure.

"GAAP" means U.S. generally accepted accounting principles consistently applied.

"Goldman Sachs" means Goldman, Sachs & Co.

"Governmental Entity" means any national, federal, state, municipal, local, territorial, foreign or other government or any department, commission, board, bureau, agency, regulatory authority or instrumentality thereof, or any court, judicial, administrative or arbitral body or public or private tribunal.

"Incurred" has the meaning assigned to it in Section 9(e)(10) hereof.

"Liquidation" has the meaning assigned to it in Section 3(a) hereof.

"Liquidation Preference" has the meaning assigned to it in Section 3(a) hereof.

"Original Issuance Date" has the meaning assigned to it in Section 2(a) hereof.

"Outstanding Company Common Stock" means the then outstanding shares of Common Stock of the Company.

"Outstanding Company Voting Securities" means the combined voting power of the then outstanding securities of the Company entitled to vote generally in the election of directors.

"Options" means rights, options or warrants to subscribe for, purchase or otherwise acquire Common Stock or Convertible Securities.

"Person" means any individual, sole proprietorship, partnership, limited liability company, joint venture, trust, incorporated organization, association, corporation, institution, public benefit corporation, Governmental Entity or other entity.

"Preferred Stock" has the meaning assigned to it in the introductory paragraph.

"Preferred Stock Directors" has the meaning assigned to it in Section 4(b) hereof.

"Purchase Agreement" means the Stock Purchase Agreement dated as of April 7, 2006, by and between the Company and the purchasers listed on the signature pages thereto.

"Purchase Price" means the original \$1.00 price per share paid on the Original Issuance Date of the Series A Preferred Stock.

"Qualifying IPO" means the sale in an underwritten initial public offering registered under the Securities Act, or any similar offering on any nationally-recognized securities exchange, including, but not limited to, the London Stock Exchange and the London Stock Exchange's Alternative Investment Market (AIM), of shares of Common Stock in which the net proceeds to the Company equal, or exceed, \$40,000,000 and the price per share to the public equals or exceeds \$3.00 (as adjusted appropriately in the event of any subdivision, combination, reorganization, recapitalization, reclassification, stock dividend or similar event).

"Series A Preferred Stock" has the meaning assigned to it in Section 1 hereof.

"Stockholders' Agreement" means the Stockholders' Agreement, dated as of April 7, 2006 by and among the Company, Goldman, Sachs and the other stockholders named therein.

"Subsidiary" means any corporation, association, trust, limited liability company, partnership, joint venture or other business association or entity (i) at least 50% of the outstanding voting securities of which are at the time owned or controlled, directly or indirectly, by the Company; or (ii) with respect to which the Company possesses, directly or indirectly, the power to direct or cause the direction of the affairs or management of such Person.

"Twenty Day Average" means, with respect to any prices and in connection with the calculation of Fair Market Value, the average of such prices over the twenty Business Days ending on the Business Day immediately prior to the day as of which "Fair Market Value" is being determined.

"Warrant" means the warrant for 4,639,175 shares, dated as of April 7, 2006, issued to Great River Energy, a Minnesota cooperative corporation.

**Section 7. Dividend Received Deduction.**

For federal income tax purposes, the Company shall report distributions on the Series A Preferred Stock as dividends, to the extent of the Company's current and accumulated earnings and profits (as determined for federal income tax purposes).

**Section 8. Preemptive Rights.**

The holders of Series A Preferred Stock shall have the preemptive rights set forth in Section 6 of the Stockholders Agreement, dated as of April 7, 2006, by and among the Company, the Common Stockholders (as such term is defined therein), and the other Series A Preferred Stockholders named therein, as such agreement may be amended from time to time.

**Section 9. Aggregation of Stock.**

All shares of Series A Preferred Stock held by or acquired by Affiliated Persons will be aggregated together for the purpose of determining the availability of any rights hereunder.

[Execution Page Follows]

IN WITNESS WHEREOF, the Company has caused this Certificate of Designations to be signed by Andrew P. Fradkin, its Secretary and General Counsel, this 7th day of April, 2006.

By: 

Name: Andrew P. Fradkin

Title: Secretary and General Counsel