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ALIPHCOM
AMENDED AND RESTATED ARTICLES OF INCORPORATION

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

APR 23 2003

Kevin Shelley
KEVIN SHELLEY, Secretary of State

PATRICK McVEIGH and HOSAIN RAHMAN hereby certify that:

1. They are the chief executive officer and secretary, respectively, of AliphCom, a California corporation.
2. The articles of incorporation of this corporation are amended and restated to read as follows:

I

The name of the corporation is AliphCom (the "Company").

II

The purpose of the Company 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

The Company is authorized to issue two classes of shares, designated respectively "Common Stock" and "Preferred Stock". The Company is authorized to issue 35,000,000 shares of Common Stock. The Company is authorized to issue 18,850,000 shares of Preferred Stock, of which 1,250,000 shares are designated Series A Preferred Stock ("Series A Preferred"), 2,100,000 shares are designated Series B Preferred Stock ("Series B Preferred") and 15,500,000 shares are designated Series C Preferred Stock ("Series C Preferred").

IV

The relative rights, preferences, privileges, and restrictions granted to or imposed upon the Common Stock and the Preferred Stock and the holders thereof are as follows:

SECTION 1. DIVIDENDS.

The holders of record of the Series A Preferred (the "Series A Preferred Holders"), the holders of record of the Series B Preferred (the "Series B Preferred Holders") and the holders of record of the Series C Preferred (the "Series C Preferred Holders," and together with the Series A Preferred Holders and the Series B Preferred Holders, the "Preferred Holders") shall be entitled to receive dividends at the rate of 8% of the applicable Original Issue Price (as defined below) per share (as adjusted for any stock dividends, combinations or splits with respect to such shares), per annum, respectively. Such dividends shall be payable out of funds legally available therefor only when, as, and if declared by the board of directors of the Company ~~the Board~~ and shall be non-cumulative.

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No dividends shall be paid with respect to the Series A Preferred, the Series B Preferred or the Common Stock until dividends at the rate of 8% of the Series C Original Issue Price (as defined below) per share (as adjusted for any stock dividends, combinations or splits with respect to such shares) per annum on the Series C Preferred shall have been paid or declared or set apart during that fiscal year.

No dividends shall be paid with respect to the Common Stock until dividends at the rate of 8% of the applicable Original Issue Price per share (as adjusted for any stock dividends, combinations or splits with respect to such shares) per annum on the Series A Preferred and the Series B Preferred shall have been paid or declared and set apart during that fiscal year.

After payment of such preferential dividends on the Series A Preferred, the Series B Preferred and the Series C Preferred during any fiscal year, any further dividends declared or paid during such fiscal year shall be declared or paid (as the case may be) ratably on the Series A Preferred, Series B Preferred and Series C Preferred (on an as converted to Common Stock basis) and the Common Stock.

SECTION 2. LIQUIDATION PREFERENCES.

2.1 Liquidation. In the event of any liquidation, dissolution, or winding up of the Company, whether voluntary or involuntary:

(i) Before any distribution or payment shall be made to the Series A Preferred Holders, Series B Preferred Holders or the holders of Common Stock (the "Common Holders"), each Series C Preferred Holder shall be entitled to receive a liquidation preference equal to the Series C Original Issue Price (as defined below) per share of Series C Preferred held by such holder (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares) plus all declared but unpaid dividends thereon (the "Series C Liquidation Preference"). If the assets of the Company legally available for distribution to the shareholders or the consideration received in a transaction deemed to be a liquidation pursuant to Section 2.2 hereof legally available for distribution to the shareholders (the "Assets") are insufficient to permit the payment in full of the Series C Liquidation Preference, then all of the Assets shall be distributed ratably among the Series C Preferred Holders in proportion to the full Series C Liquidation Preference such holders would otherwise be entitled to receive.

(ii) After payment of the full Series C Liquidation Preference, (A) each Series A Preferred Holder shall be entitled to receive a liquidation preference equal to the Series A Original Issue Price (as defined below) per share of Series A Preferred held by such holder (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares) plus any declared but unpaid dividends thereon, and (B) each Series B Preferred Holder shall be entitled to receive a liquidation preference of the applicable Series B Original Issue Price (as defined below) per share of Series B Preferred (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares) plus any declared but unpaid dividends thereon (together, the "Prior Preferred Liquidation Preference"). If the Assets are insufficient to permit the payment of the full Prior Preferred Liquidation Preference, then all of the Assets shall be distributed ratably among the Series A

Preferred Holders and the Series B Preferred Holders in proportion to the full Prior Preferred Liquidation Preference such holders would otherwise be entitled to receive.

(iii) After payment of such full Series C Liquidation Preference and full Prior Preferred Liquidation Preference, the remaining Assets, if any, shall be distributed ratably to the holders of the Common Stock and Preferred Stock on an as-if-converted to Common Stock basis until such time as the holders of Series C Preferred have received pursuant to Section 2.1(i) above and this Section 2.1(iii) an aggregate amount per share of Series C Preferred equal to three (3) times the Series C Original Issue Price (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof); thereafter, the remaining Assets, if any, shall be distributed ratably to the holders of the Common Stock, the Series A Preferred and the Series B Preferred on an as-if-converted to Common Stock basis until such time as the holders of Series A Preferred have received pursuant to Section 2.1(i) above and this Section 2.1(iii) an aggregate amount per share of Series A Preferred equal to three (3) times the Series A Original Issue Price (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof); thereafter, the remaining Assets, if any, shall be distributed ratably to the holders of the Common Stock and Series B Preferred on an as-if-converted to Common Stock basis until such time as the holders of Series B Preferred have received pursuant to Section 2.1(i) above and this Section 2.1(iii) an aggregate amount per share of Series B Preferred equal to three (3) times the Series B Original Issue Price (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares after the filing date hereof); thereafter, the remaining Assets, if any, shall be distributed ratably to the holders of the Common Stock.

(iv) The Series A Original Issue Price shall be \$0.80, the Series B Original Issue Price shall be \$0.86, and the Series C Original Issue Price shall be \$0.32921.

2.2 Merger or Sale of Assets. For purposes of this Section 2, a "liquidation" shall include (i) (A) any consolidation or merger of the Company with or into any other corporation or other entity or person, or any other corporate reorganization, in which the shareholders of the Company immediately prior to such consolidation, merger or reorganization, own less than 50% of the voting power of the surviving entity immediately after such consolidation, merger or reorganization (or its parent entity if the surviving entity is wholly-owned by the parent entity); or (B) any transaction or series of related transactions to which the Company is a party in which in excess of fifty percent (50%) of the Company's voting power is transferred (other than pursuant to an equity financing for capital raising purposes); or (ii) a sale of all or substantially all of the assets of the Company.

2.3 Repurchases. As authorized by Section 402.5(c) of the California Corporations Code, the provisions of Sections 502 and 503 shall not apply with respect to repurchases by the Company of shares of Common Stock held by employees, directors, or consultants upon termination of their employment or services, if such repurchase is pursuant to an agreement providing for the right of such repurchase.

SECTION 3. CONVERSION.

The Preferred Holders shall have conversion rights as follows (the "Conversion Rights"):

3.1 Right to Convert; Automatic Conversion.

(i) Subject to Section 3.3, 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 this Company or any transfer agent for such shares, into such number of fully paid and nonassessable shares of Common Stock determined as follows:

(A) Each share of Series A Preferred shall be convertible into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing the Series A Original Issue Price by the Series A Conversion Price, determined as hereafter provided, in effect at the time of conversion.

(B) Each share of Series B Preferred shall be convertible into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing the Series B Original Issue Price by the Series B Conversion Price, determined as hereafter provided, in effect at the time of conversion.

(C) Each share of Series C Preferred shall be convertible into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing the Series C Original Issue Price by the Series C Conversion Price, determined as hereafter provided, in effect at the time of conversion.

(ii) The initial Series A Conversion Price shall be equal to the Series A Original Issue Price, the initial Series B Conversion Price shall be equal to the Series B Original Issue Price and the initial Series C Conversion Price shall be equal to the Series C Original Issue Price; provided, however, that each such Conversion Prices shall be subject to adjustment as set forth below.

(iii) Each share of each series of Preferred Stock shall automatically be converted into shares of Common Stock at the applicable Conversion Price immediately upon the occurrence of the first of the following:

(A) Immediately upon the closing of the sale of the Company's Common Stock in a firm commitment, underwritten public offering registered under the Securities Act of 1933, as amended (the "Securities Act"), other than a registration relating solely to a transaction under Rule 145 under such Act (or any successor thereto) or to an employee benefit plan of the Company, at a public offering price (prior to underwriters' discounts and expenses) equal to or exceeding three times the Series C Original Issue Price per share of Common Stock (as adjusted for any stock dividends, combinations or splits with respect to such shares) and providing aggregate proceeds to the Company (prior to deduction for underwriters' discounts and expenses relating to the issuance, including without limitation fees of the Company's counsel) in excess of \$25,000,000; and

(B) The approval of such conversion by the written consent of the holders of a majority of the outstanding shares of such series of Preferred Stock.

3.2 Mechanics of Conversion. Before any holder of shares of Preferred Stock shall be entitled to convert the same into shares of Common Stock, he shall surrender the certificate or

certificates therefor, duly endorsed, at the office of the Company or of any transfer agent for such shares, and shall give written notice by mail, postage prepaid, to the Company at its principal corporate office, of the election to convert the same and shall state therein the name or names in which the certificate or certificates for shares of Common Stock are to be issued. (A Preferred Holder may not effect a transfer of shares pursuant to a conversion unless all applicable restrictions on transfer are complied with.) The Company shall, as soon as practicable thereafter, issue and deliver at such office to such holder of shares of Preferred Stock, or to the nominee or nominees of such holder, a certificate or certificates for the number of shares of Common Stock to which such holder shall be entitled as provided above. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the certificate or certificates representing the shares of Preferred Stock to be converted, and the person or persons entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock as of such date.

3.3 Conversion Price Adjustments. The Conversion Price of each series of Preferred Stock shall be subject to adjustment from time to time as follows:

(i) (A) If the Company shall issue any Additional Stock (as defined below) without consideration or for a consideration per share less than such Conversion Price in effect immediately prior to the issuance of such Additional Stock, then such Conversion Price in effect immediately prior to each such issuance shall (except as otherwise provided in this clause (i)) be adjusted to:

the Conversion Price determined by dividing (X) an amount equal to the sum of (a) the product derived by multiplying the Conversion Price of such series in effect immediately prior to such issue times the number of shares of Common Stock (including shares of Common Stock deemed to have been issued upon conversion of the outstanding Preferred Stock or otherwise under Section 3.3(i)(E)) outstanding immediately prior to such issue, plus (b) the consideration, if any, received by or deemed to have been received by the Company upon such issue, by (Y) an amount equal to the sum of (c) the number of shares of Common Stock (including shares of Common Stock deemed to have been issued upon conversion of the outstanding Preferred Stock or otherwise under Section 3.3(i)(E)) outstanding immediately prior to such issue, plus (d) the number of shares of Common Stock issued or deemed to have been issued in such issue.

(B) No adjustment of the Conversion Price for any series of Preferred Stock shall be made in an amount less than one cent per share, provided that any adjustment that is not required to be made by reason of this sentence shall be carried forward and taken into account in any subsequent adjustment. Except to the limited extent provided for in Sections 3.3(i)(E)(3), 3.3(i)(E)(4) and 3.3(iv), no adjustment of such Conversion Price shall have the effect of increasing the Conversion Price above the Conversion Price in effect immediately prior to such adjustment.

(C) In the case of the issuance of Common Stock for cash, the consideration shall be deemed to be the amount of cash paid therefor before deducting any discounts, commissions or other expenses paid or incurred by this corporation to any underwriter in connection with the issuance and sale of such Common Stock.

(D) In the case of the issuance of Common Stock for a consideration in whole or in part other than cash, the consideration other than cash shall be deemed to be the fair value thereof as determined by the Board.

(E) In the case of the issuance of options to purchase or rights to subscribe for Common Stock, securities by their terms convertible into or exchangeable for Common Stock or options to purchase or rights to subscribe for such convertible or exchangeable securities (where the shares of Common Stock issuable upon exercise of such options or rights or upon conversion or exchange of such securities are not excluded from the definition of Additional Stock), the following provisions shall apply:

(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 Sections 3.3(i)(C) and 3.3(i)(D)), if any, received by the Company 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, if any, 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 securities or the exercise of any related options or rights (the consideration in each case to be determined in the manner provided in Sections 3.3(i)(C) and 3.3(i)(D));

(3) In the event of any change in the number of shares of Common Stock deliverable upon exercise of such options or rights or upon conversion of or in exchange for such convertible or exchangeable securities, including, but not limited to, a change resulting from the antidilution provisions thereof, the Conversion Price in effect at the time for each series of Preferred Stock shall forthwith be readjusted to such Conversion Price as would have obtained had the adjustment that was made upon the issuance of such options, rights or securities not converted prior to such change or the options or rights related to such securities not converted prior to such change been made upon the basis of such change, but no further adjustment shall be made for the actual issuance of Common Stock upon the exercise of any such options or rights or the conversion or exchange of such securities;

(4) Upon the expiration of any such options or rights, the termination of any such rights to convert or exchange or the expiration of any options or rights related to such convertible or exchangeable securities, the Conversion Price for each series of Preferred Stock shall forthwith be readjusted to such Conversion Price as would have obtained had the adjustment which was made upon the issuance of such options, rights or securities or options or rights related to such securities 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 securities or upon the exercise of the options or rights related to such securities.

(ii) "Effective Date" means the first date on which shares of Series C Preferred were issued.

"Additional Stock" shall mean any shares of Common Stock issued (or deemed to have been issued pursuant to Section 3.3(i)(E)) by this Company after the Effective Date other than:

(A) Common Stock issued (or deemed to have been issued pursuant to Section 3.3(i)(E)) pursuant to a transaction described in Section 3.3(iii).

(B) Common Stock issued (or deemed to have been issued pursuant to Section 3.3(i)(E)) or issuable (or deemed to be issuable pursuant to Section 3.3(i)(E)) to employees, officers, or directors of, or consultants to, the Company, pursuant to an arrangement approved by the Board (including the approval of at least one director elected pursuant to Section 4.2(i) hereof).

(C) Common Stock issued (or deemed to have been issued pursuant to Section 3.3(i)(E)) or issuable (or deemed to be issuable pursuant to Section 3.3(i)(E)) upon conversion of the shares of Preferred Stock.

(D) Common Stock issued (or deemed to have been issued pursuant to Section 3.3(i)(E)) or issuable (or deemed to be issuable pursuant to Section 3.3(i)(E)) to equipment lessors or commercial lenders in connection with an equipment lease or commercial loan transaction where the principal purpose of the transaction is not to raise equity financing and where such transaction is approved by the Board (including the approval of the Special Committee, if any, elected by the Board).

(E) Common Stock issued (or deemed to have been issued pursuant to Section 3.3(i)(E)) or issuable (or deemed to be issuable pursuant to Section 3.3(i)(E)) to landlords in connection with a real property lease transaction where the principal purpose of the transaction is not to raise equity financing and where such transaction is unanimously approved by the Board.

(F) Common Stock issued (or deemed to have been issued pursuant to Section 3.3(i)(E)) or issuable (or deemed to be issuable pursuant to Section 3.3(i)(E)) pursuant to a merger, consolidation, acquisition or similar business combination or a strategic alliance or the acquisition of technology approved by the Board (including the approval of the Special Committee, if any, elected by the Board).

(G) With respect to the Series A Preferred and Series B Preferred, up to 15,218,239 shares of Series C Preferred.

(iii) In the event the Company should at any time or from time to time after the Effective Date fix a record date for the effectuation of a split or subdivision of the outstanding shares of Common Stock or the determination of holders of Common Stock entitled to receive a dividend or other distribution payable in additional shares of Common Stock or other securities or rights convertible into, or entitling the holder thereof to receive, directly or indirectly, additional shares of Common Stock (hereinafter referred to as "Common Stock Equivalents") without payment of any consideration by such holder for the additional shares of Common Stock or the Common Stock Equivalents (including the additional shares of Common Stock issuable upon conversion or exercise thereof), then, as of such record date (or the date of such dividend distribution, split or subdivision if no record date is fixed), the Conversion Price of each series of Preferred Stock shall be appropriately decreased so that the number of shares of Common Stock issuable on conversion of each such share shall be increased in proportion to such increase of outstanding shares determined by taking Section 3.3(i)(E) into account.

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

3.4 Other Distributions. In the event this Company shall declare a distribution payable in securities of other persons, evidences of indebtedness issued by this Company or other persons, assets (excluding cash dividends) or options or rights not referred to in Section 3.3(iii), then, in each such case for the purpose of this Section 3.4, the holders of the Preferred Stock shall be entitled to a proportionate share of any such distribution as though they were the holders of the number of shares of Common Stock of the Company into which their shares of Preferred Stock are convertible as of the record date fixed for the determination of the holders of Common Stock of the Company entitled to receive such distribution.

3.5 Recapitalizations. If at any time or from time to time there shall be a recapitalization of the Common Stock (other than a subdivision, combination or merger or sale of assets transaction provided for elsewhere in this Section 3), provision shall be made (in form and substance satisfactory to the holders of a majority of the Preferred Stock then outstanding) so that the holders of the Preferred Stock shall thereafter be entitled to receive, upon conversion of the Preferred Stock, such shares or other securities or property of the Company or otherwise, to which a holder of Common Stock deliverable upon conversion would have been entitled on such recapitalization. In any such case, appropriate adjustment shall be made in the application of the provisions of this Section with respect to the rights of the holders of the Preferred Stock after the recapitalization to the end that the provisions of this Section (including adjustment of the Conversion Prices then in effect and the number of shares purchasable upon conversion of shares of Preferred Stock) shall be applicable after that event as nearly equivalent as may be practicable.

3.6 No Impairment. This Company will not, by amendment of its articles of incorporation or through any reorganization, recapitalization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by this Company, but will at all times in good faith assist in the carrying out of all the provisions of this Section and in the taking of all such action as may be necessary or appropriate in order to protect the Conversion Rights of the holders of the Preferred Stock against impairment; provided that in any event, any provision of this Section 3 may be amended by the approval of the holders of a majority of the outstanding shares of any series of Preferred Stock adversely effected (in addition to all other approvals required by law).

3.7 No Fractional Shares and Certificate as to Adjustments.

(i) No fractional shares shall be issued upon conversion of shares of Preferred Stock. In lieu of fractional shares, the Company shall pay the fair value in cash of any fractional share of Common Stock that would otherwise have been issued to a Preferred Holder upon conversion of all of the shares being converted of any series of Preferred Stock.

(ii) Upon the occurrence of each adjustment of the Conversion Price of a series of Preferred Stock pursuant to this Section, the Company, at its expense, shall promptly compute such adjustment in accordance with the terms hereof and prepare and furnish to each holder of shares of the series of Preferred Stock with respect to which the Conversion Price is being adjusted a certificate setting forth such adjustment and showing in detail the facts upon which such adjustment is based. The Company shall, upon the written request at any time of any Preferred Holder, furnish or cause to be furnished to such holder a like certificate setting forth (A) such adjustment, (B) the Conversion Price at the time in effect for each series of Preferred Stock, and (C) 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.

3.8 Notices of Record Date. In the event of any taking by this Company of a record of its shareholders for the purpose of determining shareholders who are entitled to receive payment of any dividend (other than a cash dividend) or other distribution, any right to subscribe for, purchase or otherwise acquire any shares of any class or any other securities or property, or to receive any other right, this Company shall mail to each holder of shares of Preferred Stock, at least 20 days prior to the date specified therein, a notice specifying the date on which any such record is to be taken for the purpose of such dividend, distribution or right, and the amount and character of such dividend, distribution, or right.

3.9 Reservation of Shares Issuable Upon Conversion. This Company 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, this Company will take such corporate action as may, in

the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes.

3.10 Notices. Any notice required by the provisions of this Section 2 to be given to the holders of shares of Preferred Stock shall be deemed to be delivered when deposited in the United States mail, postage prepaid, registered or certified, and addressed to each holder of record at his address appearing on the stock transfer books of this Company.

SECTION 4. VOTING RIGHTS.

4.1 General. Except as provided by law, the Common Holders and the Preferred Holders shall vote together on an as if converted basis.

4.2 Voting for the Election of Directors.

(i) So long as at least twenty-five percent (25%) of the shares of Series C Preferred originally issued remain outstanding (as adjusted for any stock dividends, combinations or splits with respect to such shares), the Series C Preferred Holders, voting as a separate class, shall be entitled to elect two (2) directors of the Company at each annual election of directors (and to remove such directors and fill any vacancies with respect thereto) (each such director, a "Series C Director").

(ii) So long as an aggregate of at least 800,000 shares of Prior Preferred originally issued remain outstanding (as adjusted for any stock dividends, combinations or splits with respect to such shares), the holders of the outstanding shares of Prior Preferred, voting together as a single class on an as-converted basis, shall be entitled to elect one (1) director of the Company at each annual election of directors (and to remove such director and fill any vacancies with respect thereto).

(iii) The holders of outstanding Common Stock, voting as a separate class, shall be entitled to elect one (1) directors of the Company at each annual election of directors (and to remove such director and fill any vacancies with respect thereto).

(iv) The Series A Holders, Series B Holders, Series C Holders and Common Holders, voting together as a single class on an as-converted basis, shall be entitled to elect all remaining directors of the Company at each annual election of directors (and to remove such directors and fill any vacancies with respect thereto).

4.3 Protective Provisions.

(a) So long as at least 4,000,000 shares of Series C Preferred remain outstanding (as adjusted for any stock dividends, combinations or splits with respect to such shares) the Company shall not, without the approval (by vote or written consent, as provided by law) of the holders of a majority of the outstanding shares of Series C Preferred (voting as a separate class):

(i) Amend, alter or repeal any provision of the Company's Articles of Incorporation or Bylaws;

(ii) Alter or change the voting or other powers, preferences, or other special rights or privileges, or restrictions of the Series C Preferred, whether by reclassification, merger or amendment of these Articles of Incorporation;

(iii) Increase the authorized number of shares of Series C Preferred;

(iv) Increase the authorized number of shares of Preferred Stock;

(v) Authorize or designate, whether by reclassification, merger or amendment of these Articles of Incorporation, any new class or series of stock or any other securities convertible into equity securities of the Company ranking on a parity with or senior to the Series C Preferred;

(vi) Authorize any transaction that would be deemed to be a "liquidation" under Section 2.2 above;

(vii) Issue or sell any equity securities of any subsidiary other than to the Company or to a direct or indirect wholly owned subsidiary; or

(viii) Declare any dividend or other distribution with respect to Common Stock; or

(ix) Increase the authorized number of members of the Board to a number greater than five (5).

(b) So long as at least 800,000 shares of Series A Preferred or Series B Preferred remain outstanding, the Company shall not, without the approval (by vote or written consent, as provided by law) of the holders of a majority of the outstanding shares of the Series A Preferred and Series B Preferred (voting together as a single class):

(i) Amend, alter or repeal any provision of the Company's Articles of Incorporation or Bylaws;

(ii) Authorize or designate, whether by reclassification, merger or amendment of these Articles of Incorporation, any new class or series of stock or any other securities convertible into equity securities of the Company ranking on a parity with or senior to the Series A Preferred or Series B Preferred;

(iii) Declare any dividend or other distribution with respect to Common Stock; or

(iv) Authorize any transaction that would be deemed to be a "liquidation" under Section 2.2 above.

SECTION 5. REDEMPTION

5.1 The Company shall be obligated to redeem the Preferred Stock as follows:

(a) The holders of a majority of the then outstanding shares of Preferred Stock, voting together as a single class on an as-converted basis, may require the Company, to the extent it may lawfully do so, to redeem all of the Preferred Stock not prior to the fifth anniversary of the Effective Date of the Series C Preferred, (the "Redemption Date"); *provided* that the Company shall receive at least sixty (60) days prior to such Redemption Date written notice of such consent of the Preferred Stock. The Company shall effect such redemption on the Redemption Date by paying in cash in exchange for the shares of Preferred Stock to be redeemed a sum equal to the applicable Original Issue Price per share of Preferred Stock (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like after the filing date hereof) plus declared and unpaid dividends with respect to such shares. The total amount to be paid for the Preferred Stock is hereinafter referred to as the "Redemption Price." The number of shares of Preferred Stock that the Company shall be required to redeem on the Redemption Date shall be equal to the aggregate number of shares of Preferred Stock outstanding immediately prior to the Redemption Date.

(b) At least thirty (30) days but less than sixty (60) days prior to the Redemption Date, the Company shall send a notice (a "Redemption Notice") to all holders of Preferred Stock to be redeemed setting forth (i) the Redemption Price for the shares to be redeemed; and (ii) the place at which such holders may obtain payment of the Redemption Price upon surrender of their share certificates. If the Company does not have sufficient funds legally available to redeem all shares to be redeemed at the Redemption Date, then it shall so notify such holders and shall redeem such shares pro rata (based on the portion of the aggregate Redemption Price payable to them) to the extent possible and shall redeem the remaining shares to be redeemed as soon as sufficient funds are legally available.

5.2 On or prior to the Redemption Date, the Company shall deposit the Redemption Price of all shares to be redeemed with a bank or trust company having aggregate capital and surplus in excess of \$100,000,000, as a trust fund, with irrevocable instructions and authority to the bank or trust company to pay, on and after such Redemption Date, the Redemption Price of the shares to their respective holders upon the surrender of their share certificates. Any monies deposited by the Company pursuant to this Section 5.2 for the redemption of shares thereafter converted into shares of Common Stock pursuant to Section 3 hereof no later than the fifth (5th) day preceding the Redemption Date shall be returned to the Company forthwith upon such conversion. The balance of any funds deposited by the Company pursuant to this Section 5.2 remaining unclaimed at the expiration of one (1) year following such Redemption Date shall be returned to the Company promptly upon its written request.

5.3 On or after the Redemption Date, each holder of shares of Preferred Stock to be redeemed shall surrender such holder's certificates representing such shares to the Company in the manner and at the place designated in the Redemption Notice, and thereupon the Redemption Price of such shares shall be payable to the order of the person whose name appears on such certificate or certificates as the owner thereof and each surrendered certificate shall be canceled. In the event less than all the shares represented by such certificates are redeemed, a new

certificate shall be issued representing the unredeemed shares. From and after such Redemption Date, unless there shall have been a default in payment of the Redemption Price or the Company is unable to pay the Redemption Price due to not having sufficient legally available funds, all rights of the holder of such shares as holder of Preferred Stock (except the right to receive the Redemption Price without interest upon surrender of their certificates), shall cease and terminate with respect to such shares; *provided* that in the event that shares of Preferred Stock are not redeemed due to a default in payment by the Company or because the Company does not have sufficient legally available funds, such shares of Preferred Stock shall remain outstanding and shall be entitled to all of the rights and preferences provided herein until redeemed.

5.4~ In the event of a call for redemption of any shares of Preferred Stock, the Conversion Rights (as defined in Section 3) for such Preferred Stock shall terminate as to the shares designated for redemption at the close of business on the fifth (5th) day preceding the Redemption Date, unless default is made in payment of the Redemption Price.

V

SECTION 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.

SECTION 2. INDEMNIFICATION OF DIRECTORS AND OFFICERS.

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

SECTION 3. REPEAL OR MODIFICATION.


Any repeal or modification of the foregoing provisions of this Section 3 shall not adversely affect any right of indemnification or limitation of liability of a director or officer of this corporation relating to acts or omissions occurring prior to such repeal or modification.

3. The foregoing amendment and restatement of the articles of incorporation has been duly approved by the Board.


4. The foregoing amendment and restatement of the articles of incorporation has been duly approved by the Company's shareholders in accordance with Sections 902 and 903 of the California Corporations Code. The total number of outstanding shares of capital stock of the Company is 5,395,214 shares of Common Stock, 1,250,000 shares of Series A Preferred and 2,037,206 shares of Series B Preferred. The number of shares approving the amendment equaled or exceeded that required. The percentage approval required was more than 50% of the outstanding shares of Common Stock and Preferred Stock, each voting separately as a single class on an as-converted basis, and more than 50% of the outstanding shares of Series A Preferred and Series B Preferred, each voting separately as a single class.

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

Executed at San Francisco, California on April 22, 2003.



PATRICK MCVEIGH, Chief Executive
Officer



HOSAIN RAHMAN, Secretary