

NE-4

AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF
AEROSAT CORPORATION

AEROSAT CORPORATION (the "*Corporation*"), originally incorporated on March 2, 2006, which is a corporation organized and existing under and by virtue of the General Corporation Law ("*DGCL*") of the State of Delaware, hereby certifies as follows

FIRST: The name of the corporation is AeroSat Corporation.

SECOND: The address of its registered office in the State of Delaware is No. 1209 Orange Street, in the City of Wilmington, County of New Castle. The name of its registered agent at such address is The Corporation Trust Corporation.

THIRD: The nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the DGCL.

FOURTH: This Amended and Restated Certificate of Incorporation was duly adopted by the written consent of the stockholders, in accordance with applicable provisions of Sections 228, 242 and 245 of the DGCL and written notice of the adoption of this Amended and Restated Certificate of Incorporation has been given as provided by Section 228 of the DGCL to every stockholder entitled to such notice.

FIFTH: Effective upon the filing of this Certificate of Incorporation with the Secretary of State of the State of Delaware (the "*Effective Date*") and in compliance with the DGCL, the following recapitalization events (the "*Recapitalization*") shall occur without any further action on the part of the Corporation:

- (i) Each issued and outstanding share of the Corporation's Common Stock ("*Prior Common Share*") shall be reclassified as and converted into 0.559 shares of Common Stock (as defined below), rounded to the nearest whole share, without any action by the holder thereof.
- (ii) Each issued and outstanding share of the Corporation's Series B Convertible Preferred Stock ("*Prior Series B Share*") shall be reclassified as and converted into 0.99 shares of Series A Preferred Stock (as defined below), rounded to the nearest whole share, without any action by the holder thereof.
- (iii) Each issued and outstanding share of the Corporation's Series C Convertible Preferred Stock ("*Prior Series C Share*") shall be reclassified as and converted into 2.46 shares of Series A Preferred Stock (as defined below), rounded to the nearest whole share, without any action by the holder thereof.

State of Delaware
Secretary of State
Division of Corporations
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- (iv) Each issued and outstanding share of the Corporation's Series D Convertible Preferred Stock ("*Prior Series D Share*") shall be reclassified as and converted into 1.48 shares of Series A Preferred Stock (as defined below), rounded to the nearest whole share, without any action by the holder thereof.

The holders of the Prior Common Shares, Prior Series B Shares, Prior Series C Shares and Prior Series D Shares (collectively, the "*Prior Shares*") may surrender the certificates representing such shares at the office of the Corporation or of its transfer agent in exchange for new share certificates. In the event that a holder of certificates representing Prior Shares does not tender all such certificates for exchange, the certificates representing the Prior Shares shall be deemed to represent the number of shares of Common Stock or Series A Preferred Stock, as applicable, that the Prior Shares are reclassified as and converted into as set forth herein and the stock records of the Corporation shall reflect the Recapitalization. If more than one certificate representing Prior Shares shall be surrendered at one time for the account of the same stockholder, the number of full shares of Common Stock or Series A Preferred Stock, as applicable, for which a new certificate shall be issued shall be computed on the basis of the aggregate number of shares represented by the surrendered certificates representing the surrendered stock. If any certificate representing Common Stock or Series A Preferred Stock, as applicable, is to be issued in a name other than that in which the Prior Shares were registered, the certificates to purchase Prior Shares so surrendered shall be properly endorsed and otherwise in proper form for transfer.

Giving effect to the Recapitalization, the total number of shares of all classes of stock which the Corporation has authority to issue shall be 126,890,900 shares, consisting of:

- (i) 68,849,628 shares of Common Stock, \$0.01 par value (the "*Common Stock*"); and
- (ii) 58,041,272 shares of Preferred Stock, \$0.01 par value (the "*Preferred Stock*"), of which 27,446,778 shares are designated Series A Convertible Preferred Stock, \$0.01 par value (the "*Series A Preferred Stock*"); and of which 30,594,494 shares are designated Series B Convertible Stock, \$0.01 par value (the "*Series B Preferred Stock*").

The Corporation's board of directors (the "*Board of Directors*") is authorized, subject to any limitations prescribed by the law of the State of Delaware, and subject to the rights of the Series A Preferred Stock and the Series B Preferred Stock authorized by this Certificate of Incorporation, and subject to the rights of any future issuances of additional series of Preferred Stock, to provide for the issuance of additional series of Preferred Stock, and by filing a certificate of designations pursuant to the applicable law of the State of Delaware, to establish from time to time the number of shares to be included in each such additional series, to fix the designation, powers, preferences and rights of the shares of each such additional series, and any qualifications, limitations or restrictions thereof, and to increase or decrease the number of shares of any such additional series (but not below the number of shares of such series then outstanding). The number of authorized shares of Preferred Stock may also be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote

of the holders of a majority of the stock of the Corporation entitled to vote, unless a vote of any other holders is required pursuant to this Certificate of Incorporation or a certificate or certificates establishing a series of Preferred Stock.

The Common Stock, the Series A Preferred Stock and the Series B Preferred Stock shall have the following respective designations, preferences, dividend rights, voting rights, conversion rights, restrictions on issuance of shares and other relative, participating, optional or other special rights and preferences, and qualifications, limitations or restrictions thereon, and are created on the following terms, respectively:

A. Common Stock

1. General. The voting, dividend and liquidation rights of the holders of Common Stock are subject to, and qualified by, the rights of the holders of the Preferred Stock of any series.

2. Voting and Election of Directors.

a) Voting. The holders of shares of Common Stock are entitled to one (1) vote for each share held at each meeting of stockholders of the Corporation (and all written actions in lieu of meetings) with respect to any and all matters presented to the stockholders of the Corporation for their action or consideration.

(b) Directors. The holders of shares of Common Stock as of this Effective Date, voting as a separate class, shall at all times be entitled to elect two directors as members of the Board of Directors of the Corporation. The holders of record of shares of Common Stock and of any other class or series of voting stock (including the Preferred Stock), voting together as a single class, shall at all times be entitled to elect one director as a member of the Board of Directors of the Corporation.

3. Dividends. Dividends may be paid on the shares of Common Stock from funds lawfully available therefor as, if and when declared by the Board of Directors.

4. Liquidation. Upon the voluntary or involuntary liquidation, sale, merger, consolidation, dissolution or winding up of the Corporation, holders of Common Stock will be entitled to receive all assets of the Corporation available for distribution to its stockholders, subject to the preferential liquidation rights of the holders of the then-outstanding Preferred Stock.

B. Preferred Stock

5. Designation and Amount. There is created a series of Preferred Stock designated as "**Series B Convertible Preferred Stock**", referred to herein as the "**Series B Preferred Stock**". The number of shares constituting such series is 30,594,494. Each share of Series B Preferred Stock has a stated face amount ("**Series B Face Amount**") of \$1.00. There is created a series of Preferred Stock designated as "**Series A Convertible Preferred Stock**", referred to herein as the "**Series A Preferred Stock**". The number of shares constituting such series is 27,446,778. Each share of Series A Preferred Stock has a stated face amount ("**Series A Face Amount**") of \$1.00.

6. Dividends. So long as any shares of the Preferred Stock are outstanding, no dividends may be declared or paid or set apart for payment on the Common Stock or any particular series of Preferred Stock unless a dividend is paid at the same time to every holder of capital stock, in an amount such that all holders of capital stock receive dividends in the same relative proportions that each would have received had all such shares of Preferred Stock been converted into Common Stock immediately prior to the declaration of a dividend.

7. Liquidation Preference.

(a) Upon any liquidation, dissolution or winding up of the affairs of the Corporation, voluntarily or involuntarily ("Liquidation Event"), the holders of the Series B Preferred Stock are entitled, before any distributions are made to the holders of the Series A Preferred Stock, Common Stock, or any other class of capital stock of the Corporation ranking junior to the Series B Preferred Stock, to be paid an amount per share equal to greater of (i) the Series B Face Amount (appropriately adjusted to reflect the occurrence of any event described in Sections 9(d)-9(g)), plus any declared but unpaid dividends, or (ii) the aggregate pro rata liquidating distribution, per share, payable to holders of Series B Preferred Stock on an as-converted basis.

(b) Upon any Liquidation Event of the Corporation, whether voluntary or involuntary, the holders of the Series A Preferred Stock are entitled, before any distributions are made to the holders of the Common Stock, but after the required distribution to the holders of the Series B Preferred Stock, to be paid an amount per share equal to greater of (i) the Series A Face Amount (appropriately adjusted to reflect the occurrence of any event described in Sections 9(d)-9(g)), plus any declared but unpaid dividends, or (ii) the aggregate pro rata liquidating distribution payable to holders of Series A Preferred Stock on an as-converted basis.

(c) After payment has been made to the holders of the Series B Preferred Stock and the Series A Preferred Stock of the full amounts to which they are entitled as provided herein, and after the payment to the holders of any series of Preferred Stock authorized in the future (subject to the limitations contained in Section 10 hereof) of the full preferential amount specified therefor, the remaining assets of the Corporation available for distribution to stockholders will be distributed among the holders of Common Stock ratably in proportion to the number of shares of Common Stock held by them.

(d) The (1) consolidation or merger of the Corporation into or with any other entity or entities, except any such consolidation or merger involving the Corporation or a subsidiary of the Corporation, in which the shares of Common and Preferred Stock represent or are converted or exchanged for shares of capital stock which represents immediately following such consolidation or merger at least a majority, by voting power, of the capital stock of the surviving or resulting corporation or, if the surviving or resulting corporation is a wholly-owned subsidiary of another corporation immediately following such merger or consolidation, the parent corporation of such surviving or resulting corporation (2) the sale or transfer by the Corporation of at least 80% of its assets, outside the ordinary course of business, except where such sale or transfer is to a wholly-owned subsidiary of the Corporation or (3) any other form of acquisition or business combination, other than with a wholly-owned subsidiary of the Corporation, where the Corporation is the target of such acquisition and where a change in control occurs such that the person or entity seeking to acquire the Corporation, exclusive of the current holders of the

Common Stock and Preferred Stock, has the power to elect a majority of the Board of Directors as a result of the transaction shall be deemed to be a liquidation, dissolution or winding up of the Corporation for purposes of this Section 7 (a "***Deemed Liquidation Event***"), unless written notice electing otherwise is received by the Corporation at least 5 days prior to the Deemed Liquidation Event from (i) the holders of a majority of the Series B Preferred Stock and (ii) for so long as not fewer than thirty percent (30%) of the shares of Series A Preferred Stock outstanding as of the consummation of the transactions contemplated by the Redemption Agreement (as defined herein) remain outstanding, the holders of at least sixty percent (60%) of the Series A Preferred Stock (such holders of Series A Preferred Stock being the "***Required Holders***").

Notwithstanding the foregoing, the term "***Deemed Liquidation Event***" shall not include and the provisions of this Section 7(d) shall not apply to, any reorganization, merger or consolidation involving (1) only a change in the state of incorporation of the Corporation, (2) a merger of the Corporation with or into a wholly-owned subsidiary of the Corporation that is incorporated in the United States of America or (3) an acquisition or merger, reorganization or consolidation, of which the Corporation is substantively the surviving corporation and operates as a going concern, where the Corporation is purchasing the assets or stock of another entity, and where there is a reasonable continuity of ownership such that the holders of the Corporation's capital stock outstanding prior to any proposed business combination or acquisition continue to have the right or power to elect a majority of the members of the Corporation's Board of Directors following the consummation of any such business combination or acquisition

8. Voting; Election of Majority of Directors.

(a) Voting. Except as otherwise expressly provided in Article Fourth or elsewhere herein or as required by law, the holders of each share of Series B Preferred Stock and each share of Series A Preferred Stock are entitled to vote on all matters upon which holders of Common Stock have the right to vote and with respect to such vote, are entitled to notice of any stockholders' meeting in accordance with the Bylaws of the Corporation, and are entitled to a number of votes equal to the largest number of full shares of Common Stock into which such shares of Series B Preferred Stock and Series A Preferred Stock, as applicable, could be converted, pursuant to the provisions of Section 9 below, at the record date for the determination of stockholders entitled to vote on such matters or, if no such record date is established, at the date such vote is taken or any written consent of stockholders is first solicited

(b) Directors. The holders of a majority of Series B Preferred Stock, voting as a separate class, shall at all times be entitled to elect a majority of the members of the Board of Directors of the Corporation, which shall initially be five (5) directors. The holders of Series A Preferred Stock shall at all times be entitled to elect one (1) director as a member of the Board of Directors.

9. Conversion. The holders of the Series B Preferred Stock and the holders of the Series A Preferred Stock have the following conversion rights (the "***Conversion Rights***"):

(a) Optional Conversion. Each share of Series B Preferred Stock is convertible, at the option of the holder thereof, at any time after the date of issuance of such share, at the office of

the Corporation or any transfer agent, into one (the "*Series B Conversion Ratio*") fully paid and nonassessable shares of Common Stock. Each share of Series A Preferred Stock is convertible, at the option of the holder thereof, at any time after the date of issuance of such share, at the office of the Corporation or any transfer agent, into one ("*Series A Conversion Ratio*") fully paid and nonassessable shares of Common Stock.

(b) Mandatory Conversion. Each share of Series B Preferred Stock and Series A Preferred Stock will be automatically converted into Common Stock upon the occurrence of the closing of an underwritten public offering resulting in net proceeds to the Corporation of not less than \$30 million ("*Qualified Public Offering*") covering the sale of Common Stock to the public.

(c) Mechanics of Conversion. No fractional shares of Common Stock shall be issued upon conversion of Preferred Stock. In lieu of any fractional share to which a holder of Preferred Stock would otherwise be entitled, the Corporation shall pay to the holder of the shares of Preferred Stock which were converted a cash adjustment in respect of such fractional shares in an amount equal to the same fraction of the market price per share of the Common Stock (as determined in good faith and in a reasonable manner prescribed by the Board of Directors) at the close of business on the date of such conversion. Before any holder of Preferred Stock shall be entitled to convert the same into full shares of Common Stock, the holder shall surrender the certificate or certificates therefor, duly endorsed for transfer, at the office of the Corporation or of any transfer agent for the Preferred Stock, and shall give written notice to the Corporation of such election to convert the same or the holder shall notify the Corporation that such certificates have been lost, stolen or destroyed and shall execute an agreement satisfactory to the Corporation to indemnify the Corporation from any loss incurred by it in connection therewith. The Corporation shall, as soon as practicable thereafter, issue and deliver to such holder of Preferred Stock a certificate or certificates for the number of shares of Common Stock to which he, she or it shall be entitled as aforesaid and a check payable to the holder in cash for amounts payable in order to avoid a conversion into fractional shares of Common Stock. Except as provided herein for a mandatory conversion, such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the 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 on such date.

(d) Adjustment for Stock Splits and Combinations. If the Corporation effects a subdivision or reduction of the outstanding Common Stock, or issues Common Stock as a dividend, the Series B Conversion Ratio and the Series A Conversion Ratio then in effect immediately before such subdivision will be proportionately increased or decreased.

(e) Adjustments for Dividends and Distributions. If the Corporation at any time or from time to time after the date on which a share of Series B Preferred Stock or a share of Series A Preferred Stock, as applicable, is issued (such date being the share's "*Issuance Date*") makes or issues, or fixes a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable in securities of the Corporation other than shares of Common Stock then, and in each such event, provision must be made so that the holders of Series B Preferred Stock and Series A Preferred Stock will receive upon conversion thereof in

addition to the number of shares of Common Stock receivable thereupon, the amount of securities of the Corporation that they would have received had their shares of Series B Preferred Stock or shares of Series A Preferred Stock, as applicable, been converted into Common Stock on the date of such event and had thereafter, during the period from the date of such event to and including the conversion date retained such securities receivable by them as aforesaid during such period giving application to all adjustments called for during such period under this Section 9 with respect to the rights of the holders of such Preferred Stock.

(f) Adjustment for Reclassification Exchange or Substitution If the Common Stock issuable upon the conversion of the Series B Preferred Stock or the conversion of the Series A Preferred Stock is changed into the same or a different number of shares of any class or classes of stock, whether by capital reorganization, reclassification or otherwise (other than a subdivision or combination of shares or stock dividend provided for in Sections 9(d) and (e) above, or Section 9(g) below) then, and in each such event, the holder of each share of Series B Preferred Stock and each share of Series A Preferred Stock, as applicable, will have the right thereafter to convert such shares into the kind and amounts of shares of stock and other securities and property receivable upon such reorganization, reclassification or other change, by holders of the numbers of shares of Common Stock into which such shares of Preferred Stock could have been converted immediately prior to such reorganization, reclassification or change, all subject to further adjustment as provided in this Section 9.

(g) Reorganization, Consolidation. If at any time or from time to time after a share's Issuance Date there is a capital reorganization of the Common Stock (other than a subdivision, combination, reclassification or exchange of shares provided for elsewhere in this Section 9) (each a "**Reorganization Event**") and if as a part of such Reorganization Event the Series B Preferred Stock or the Series A Preferred Stock, as applicable, is not canceled, exchanged, redeemed or otherwise retired then provision will be made so that the holders of such shares of Preferred Stock will thereafter be entitled to receive upon conversion of their shares of Preferred Stock the number of shares of stock or other securities or property of the Corporation, or of the successor corporation resulting from such Reorganization Event, to which a holder of that number of shares of Common Stock deliverable upon conversion of such Preferred Stock would have been entitled on such Reorganization Event. In any such case, appropriate adjustment will be made in the application of the provisions of this Section 9 with respect to the rights of the holders of such Preferred Stock after the Reorganization Event to the end that the provisions of this Section 9 are applicable after that event as nearly equivalently as may be practicable.

(h) Reservation of Shares. The Corporation will at all times reserve and keep available, out of its authorized and unissued shares of Common Stock, solely for the purpose of effecting the conversion of the Series B Preferred Stock and the Series A Preferred Stock, such number of shares of its Common Stock, free of preemptive rights, as are sufficient to effect the conversion of all shares of Series B Preferred Stock and Series A Preferred Stock from time to time outstanding. As a condition precedent to the taking of any action which would cause an adjustment to the Series B Conversion Ratio or the Series A Conversion Ratio, the Corporation will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as are sufficient to enable it to validly and legally issue the shares of its Common Stock that are issuable based upon such adjusted Series B Conversion Ratio or Series A Conversion Ratio, as applicable.

10. Mandatory Redemption. If there has not been a sale of the Corporation pursuant to a transaction, or series of related transactions, in which any person, other than an affiliate of the holders of Series B Preferred Stock, acquires (a) at least eighty percent (80%) of the capital stock of the Corporation (whether by merger, consolidation or sale or transfer of the Corporation's capital stock) or (b) at least eighty percent (80%) of the Corporation's assets determined on a consolidated basis outside the ordinary course of business (such event being, a "***Sale of the Company***") or the Corporation has not undertaken a Qualified Public Offering within five years from the date of issuance of the shares of Preferred Stock described herein, the holders of Series B Preferred Stock may, in their sole and individual discretion, deliver a sale notice ("***Put Notice***") to the Corporation and the holders of Series A Preferred Stock specifying that they desire to sell their shares of Series B Preferred Stock to the Corporation. Within ten business days from delivery of the Put Notice, any holder of Series A Preferred Stock may deliver notice to the Corporation that such holder desires to participate in such sale and to sell their shares of Series A Preferred Stock to the Corporation. Subject to any limitations imposed by the DGCL, the Corporation must, in accordance with this Section 10, purchase the shares of Preferred Stock being sold to it and must undertake such actions as may be required to conclude such sale as soon as is administratively feasible after determination of the purchase price but in no event later than 30 calendar days after any such determination is made. The purchase price for the shares of Preferred Stock shall be the greater of (a) their then fair market value as determined by an independent appraiser, or investment banker, reasonably acceptable in good faith to the holders of Preferred Stock and Common Stock, which will be binding upon the parties, or (b) at such holder of Preferred Stock's option, at a price equal to their original purchase price times the number of shares of Preferred Stock held by the holder (the "***Put Price***").

11. Restrictions and Limitations.

(a) So long as any shares of Series B Preferred Stock remain outstanding, the Corporation will not, without the vote or written consent of the holders of a majority ("***Majority Holders***") of the then outstanding shares of Series B Preferred:

(1) authorize or issue any class or series of stock having any preferences or priority that is *pari passu* with or superior to any such preference or priority of Series B Preferred Stock; or

(2) amend the Certificate of Incorporation, any Certificate of Designations or Bylaws of the Corporation in a manner that materially and adversely affects the rights, preferences or privileges of the Series B Preferred Stock, or increases or decreases the authorized number of shares of Series B Preferred Stock

(b) For so long as not fewer than thirty percent (30%) of the shares of Series A Preferred Stock outstanding as of the consummation of the transactions contemplated by the Redemption Agreement (as defined herein) remain outstanding, the Corporation will not, without the vote or written consent of the Required Holders:

(1) authorize or issue any other class or series of stock having any preferences or priority that is *pari passu* with or superior to any such preference or priority of Series A Preferred Stock;

(2) amend the Certificate of Incorporation, any Certificate of Designations or Bylaws of the Corporation in a manner that materially and adversely affects the rights, preferences or privileges of the Series A Preferred Stock, or increases or decreases the authorized number of shares of Series A Preferred Stock;

(3) directly or indirectly declare or pay any dividends or other distributions on its capital stock or repurchase or redeem any of its capital stock except as provided for in (i) the Redemption Agreement, dated as of the Effective Date, by and among the Corporation and certain stockholders (the "*Redemption Agreement*"); (ii) the Stockholders Agreement, dated as of the Effective Date, by and among the Corporation and its stockholders (the "*Stockholders Agreement*") and (iii) the Registration Rights Agreement, dated as of the Effective Date, by and among the Corporation and its stockholders (the "*Registration Rights Agreement*") for so long as any such agreement is in effect,

(4) enter into, or permit, any agreement pursuant to which the Corporation sells, licenses, transfers, pledges or encumbers any of its proprietary technology or intellectual property to any holder of Series B Preferred Stock or any direct or indirect affiliate of such holder; or

(5) change the number of individuals who shall comprise the Board of Directors, or change any procedure of the Corporation related to the designation, nomination or election of the directors to the Board of Directors contained herein or in the Stockholders Agreement.

12. No Dilution or Impairment. The Corporation will not, by amendment of its Certificate of Incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issuance or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of the Preferred Stock set forth herein, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such action as may be necessary or appropriate in order to protect the rights and privileges of the holders of the Preferred Stock. Without limiting the generality of the foregoing, the Corporation (a) will not increase the par value of any shares of stock receivable on the conversion of the Preferred Stock above the amount payable therefore on such conversion, and (b) will take all such action as may be necessary or appropriate in order that the Corporation may validly and legally issue fully paid and nonassessable shares of Common Stock on the conversion of all Preferred Stock from time to time outstanding.

~~(a)~~13. Participation Rights. Subject to the terms and conditions specified in this Section 13, and applicable securities laws, the Corporation shall not issue or sell any shares of any of its capital stock or any securities convertible into or exchangeable for any shares of its

capital stock, issue or grant any options or warrants for the purchase of, or enter into any agreements providing for the issuance (contingent or otherwise) of, any of its capital stock or any stock or securities convertible into or exchangeable for any shares of its capital stock (each an "Issuance" of "New Securities"), except in compliance with the following:

(a) The Corporation shall deliver a notice (the "**Participation Notice**") to each holder of capital stock of the Corporation ("**Participation Offeree**") stating (i) its bona fide intention to offer such New Securities, (ii) the number of such New Securities to be offered, including the maximum number of shares of Common Stock for which or into which such New Securities may at such date of determination be exercised, converted or exchanged and (iii) the price and terms, if any, upon which it proposes to offer such New Securities.

(b) By written notification received by the Corporation within ten (10) calendar days after mailing of the Participation Notice, each of the Participation Offerees may elect to purchase or obtain, at the price and on the terms specified in the Offer Notice, up to that portion of such New Securities which equals the proportion that the number of shares of Common Stock issued and held, or issuable upon conversion of the Preferred Stock (and any other securities convertible into, or otherwise exercisable or exchangeable for, shares of Common Stock) then held by such Participation Offeree bears to the total number of shares of Common Stock of the Corporation then outstanding (assuming full conversion and exercise of all outstanding convertible or exercisable securities). Each Participation Offeree who does not so accept such offer within the time period specified shall be deemed to have waived all rights with respect to the Issuance.

(c) The Corporation shall promptly inform, in writing, each Participation Offeree that elects to purchase all of the shares available to it (each, a "**Fully Exercising Offeree**") of any other Participation Offeree's failure to do likewise. During the ten (10) calendar day period commencing after receipt of such information, each Fully-Exercising Offeree shall be entitled to obtain that portion of the New Securities for which the Participation Offerees were entitled to subscribe but which were not subscribed for by the Participation Offerees which is equal to the proportion that the number of shares of Common Stock issued and held, or issuable upon conversion of the Preferred Stock (and any other securities convertible into, or otherwise exercisable or exchangeable for, shares of Common Stock) then held by such Fully Exercising Offeree bears to the total number of shares of Common Stock issued and held, or issuable upon conversion of the Preferred Stock (and any other securities convertible into, or otherwise exercisable or exchangeable for, shares of Common Stock) then held, by all Fully Exercising Offerees who wish to purchase such unsubscribed shares.

(d) If all New Securities referred to in the Participation Notice are not elected to be purchased or obtained as provided in Section 13(a) and Section 13(b) above, the Corporation shall thereafter be free to issue the remaining unsubscribed portion of the New Securities in the Issuance, not otherwise subscribed for by the Participation Offerees, to the third party at a price no less than the minimum price set forth in the Participation Notice and on other principal terms not substantially more favorable than those set forth in the Participation Notice, without any further obligation to such non-accepting Participation Offerees.

(e) The right of participation in this Section 13 shall not be applicable to: (i) up to 6,527,850 shares of Common Stock (appropriately adjusted for any stock split, stock dividend,

combination or other recapitalization effected after the date hereof) issued or deemed issued to employees or directors of, or consultants to, the Corporation or any of its subsidiaries pursuant to a plan, agreement, or arrangement approved by the Board of Directors, (ii) shares of Common Stock issued in an underwritten public offering; (iii) the issuance of securities pursuant to the conversion or exercise of convertible or exercisable securities existing as of the Effective Date and issued pursuant to the transactions contemplated by the Series B Preferred Stock Purchase Agreement by and among the Corporation and the Purchasers named therein, (iv) securities issued in connection with any stock split or stock dividend of the Corporation; (v) the issuance of securities in connection with a bona fide business acquisition of or by the Corporation, whether by merger, consolidation, sale of assets, sale or exchange of stock or otherwise, which acquisition is approved by the Board of Directors and in compliance with this Certificate of Incorporation and (vi) any issuance if the application of this Section 12 to such issuance is waived in writing by the majority of holders of Series B Preferred Stock and the Required Holders.

14. Severability of Provisions. Whenever possible, each provision hereof will be interpreted in a manner as to be effective and valid under applicable law, but if any provision hereof is held to be prohibited by or invalid under applicable law, such provision will be ineffective only to the extent of such prohibition or invalidity without invalidating or otherwise adversely affecting the remaining provisions hereof. If a court of competent jurisdiction should determine that a provision hereof would be valid or enforceable if a period of time were extended or shortened or a particular percentage were increased or decreased, then such court may make such change as is necessary to render the provision in question effective and valid under applicable law.

14. Amendment.

(a) Without the vote or written consent of the Majority Holders of the then outstanding shares of Series B Preferred Stock, no amendment to this Certificate of Incorporation may: (1) change the rights, preferences, privileges or priority of the Series B Preferred Stock in relation to the rights, preferences, privileges or priority of the any other series of Preferred Stock; or (2) materially affect the rights, preferences, privileges or priority of the Series B Preferred Stock.

(b) Without the vote or written consent of the Required Holders, no amendment to this Certificate of Incorporation may: (1) change the rights, preferences, privileges or priority of the Series A Preferred Stock in relation to the rights, preferences, privileges or priority of the any other series of Preferred Stock; or (2) materially affect the rights, preferences, privileges or priority of the Series A Preferred Stock.

FIFTH: The Corporation is to have perpetual existence.

SIXTH: Whenever a compromise or arrangement is proposed between the Corporation and its creditors or any class of them and/or between the Corporation and its stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of the Corporation or of any creditor or stockholder thereof or on the application of any receiver or receivers appointed for the

Corporation under the provisions of Section 291 of Title 8 of the Delaware Code or on the application of trustees in dissolution or of any receiver or receivers appointed for the Corporation under the provisions of Section 279 of Title 8 of the Delaware Code order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholders of the Corporation, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three-fourths (3/4) in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders of the Corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of the Corporation as consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors and/or on all the stockholders or class of stockholders of the Corporation, as the case may be, and also on the Corporation.

SEVENTH: Meetings of stockholders may be held within or outside the State of Delaware, as the Bylaws may provide. The books of the Corporation may be kept (subject to any provision contained in the statutes) outside the State of Delaware at such place or places as may be designated from time to time by the Board or in the Bylaws of the Corporation. Elections of directors need not be by written ballot unless the Bylaws of the Corporation shall so provide.

EIGHTH: Subject to the terms and conditions set forth in this Certificate of Incorporation, 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.

NINTH: No director shall be personally liable to the Corporation or any of its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (a) for any breach of the director's duty of loyalty to the Corporation or its stockholders, (b) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (c) under Section 174 of the DGCL, or (d) for any transaction from which the director derived an improper personal benefit. If the DGCL hereafter is amended to authorize the further elimination or limitation of the liability of directors, then the liability of a director of the Corporation, in addition to the limitations on personal liability provided herein, shall be limited to the fullest extent permitted by the amended DGCL. Any repeal or modification of this Article shall be prospective only, and shall not adversely affect any limitation on the personal liability of a director of the Corporation existing at the time of such repeal or modification.

TENTH: (a) Each person who was or is made a party to or is threatened to be made a party to or is involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "*proceeding*"), by reason of the fact that he or she, or a person of whom he or she is the legal representative, is or was a director or officer of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, whether the basis of such proceeding is alleged action in an official capacity as a director, officer, employee or agent or in any other capacity while serving as a director, officer, employee or agent, shall be indemnified and held harmless by the Corporation to the fullest extent authorized by the DGCL, as the same exists or may hereafter be

amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than said law permitted the Corporation to provide prior to such amendment), against all expense, liability and loss (including attorneys' fees, judgments, fines, ERISA, excise taxes or penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by such person in connection therewith and such indemnification shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of his or her heirs, executors and administrators; provided, however, that, except as provided in this Article Tenth, the Corporation shall indemnify any such person seeking indemnification in connection with a proceeding (or part thereof) initiated by such person only if such proceeding (or part thereof) was authorized by the Board. The right to indemnification conferred in this Article Tenth shall be a contract right and shall include the right to be paid by the Corporation the expenses incurred in defending any such proceeding in advance of its final disposition; provided, further, that if the DGCL requires, the payment of such expenses incurred by a director or officer in his or her capacity as a director or officer (and not in any other capacity in which service was or is rendered by such person while a director or officer, including, without limitation, service to an employee benefit plan) in advance of the final disposition of a proceeding shall be made only upon delivery to the Corporation of an undertaking, by or on behalf of such director or officer, to repay all amounts so advanced if it shall ultimately be determined that such director or officer is not entitled to be indemnified under this Article or otherwise. The Corporation may, by action of its Board, provide indemnification to employees and agents of the Corporation with the same scope and effect as the foregoing indemnification of directors and officers.

(b) If a claim under Article Tenth is not paid in full by the Corporation within thirty (30) days after a written claim has been received by the Corporation, the claimant may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim and, if successful in whole or in part, the claimant shall be entitled to be paid also the expense of prosecuting such claim. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any proceeding in advance of its final disposition where the required undertaking, if any is required, has been tendered to the Corporation) that the claimant has not met the standards of conduct which make it permissible under the DGCL for the Corporation to indemnify the claimant for the amount claimed, but the burden of proving such defense shall be on the Corporation. Neither the failure of the Corporation (including its Board, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the DGCL, nor an actual determination by the Corporation (including its Board, independent legal counsel, or its stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.

(c) The right to indemnification and the payment of expenses incurred in defending a proceeding in advance of its final disposition conferred in this Article shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, provision of this Certificate of Incorporation, Bylaws, agreement, vote of stockholders or disinterested directors or otherwise.

(d) The Corporation may maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise against any such expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the Delaware General Corporation Law.

(e) As used in this Article Tenth, references to "*the Corporation*" shall include, in addition to the resulting or surviving corporation, any constituent corporation absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, employees and agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, or other enterprise, shall stand in the same position under the provisions of this Article with respect to the resulting or surviving corporation as he would have with respect to such constituent corporation if its separate existence had continued.

(f) If this Article or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Corporation shall nevertheless indemnify each director, officer, employee and agent of the Corporation as to expenses (including attorneys' fees), judgments, fines and amounts paid in settlement with respect to any action, suit or proceeding, whether civil, criminal, administrative or investigative, including a grand jury proceeding and an action by the Corporation, to the fullest extent permitted by any applicable portion of this Article that shall not have been invalidated or by any other applicable law.

ELEVENTH: Severability of Provisions. Whenever possible, each provision of this Certificate Of Incorporation, as same may hereafter be amended, will be interpreted in a manner as to be effective and valid under applicable law, but if any provision hereof is held to be prohibited by or invalid under applicable law, such provision will be ineffective only to the extent of such prohibition or invalidity without invalidating or otherwise adversely affecting the remaining provisions hereof. If a court of competent jurisdiction determines that a provision hereof would be valid or enforceable if a period of time were extended or shortened or a particular percentage were increased or decreased, then such court may make such change as is necessary to render the provision in question effective and valid under applicable law.

TWELTH Except as expressly otherwise provided by the DGCL, this Amended and Restated Certificate of Incorporation, any Certificate of Designations, the Bylaws or the Stockholders Agreement, all action of the stockholders by class must be by majority vote.

IN WITNESS WHEREOF, the undersigned for the purpose of amending and restating the Certificate of Incorporation of the Corporation pursuant to the General Corporation Law of the State of Delaware, under penalties of perjury does hereby declare and certify that this is the act and deed of the Corporation and accordingly has herunto executed this Amended and Restated Certificate of Incorporation on this 23rd day of March, 2006.

AEROSAT CORPORATION

By: /s/ Michael Barrett
Name: Michael Barrett
Its: Chief Executive Officer