

RESTATED CERTIFICATE OF INCORPORATION

OF

ACCELCHIP, INC.

**(Originally incorporated on July 18, 2000
under the name Mach Design Systems, Inc.)**

AccelChip, Inc., a Delaware corporation, hereby certifies that the Restated Certificate of Incorporation of the corporation attached hereto as Exhibit "A", which is incorporated herein by this reference, and which restates, integrates and further amends the provisions of the Restated Certificate of Incorporation of this corporation as heretofore amended or supplemented, has been duly adopted by the corporation's Board of Directors and stockholders in accordance with Sections 242 and 245 of the Delaware General Corporation Law, with the approval of the Corporation's stockholders having been given by written consent without a meeting in accordance with Section 228 of the Delaware General Corporation Law.

IN WITNESS WHEREOF, said corporation has caused this Restated Certificate of Incorporation to be signed by its by duly authorized officer this 25th day of October, 2004 and the foregoing facts stated herein are true and correct.

ACCELCHIP, INC.

By: /s/ Vin Ratford
Vin Ratford
President and Chief Executive Officer

State of Delaware
Secretary of State
Division of Corporations
Delivered 01:58 PM 10/25/2004
FILED 01:58 PM 10/25/2004
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Exhibit "A"

I.

Corporate Name. The name of the corporation is "AccelChip, Inc." (the "Corporation").

II.

Registered Office. The address of the registered office of the Corporation is Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, County of New Castle. The name of the registered agent of the Corporation at such address is The Corporation Trust Company.

III.

Corporate Purpose. The nature of the business of the Corporation or the purposes of the Corporation to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law ("GCL").

IV.

(A) **Authorized Shares of Capital Stock.** The total number of shares of all classes of stock which the Corporation shall have the authority to issue is Forty Million Eight Hundred Forty-Eight Thousand Twenty-Six (40,848,026) shares, of which Twenty-Five Million (25,000,000) shares are Common Stock, \$0.001 par value per share, and Fifteen Million Eight Hundred Forty-Eight Thousand Twenty-Six (15,848,026) shares are Preferred Stock, \$0.001 par value.

(B) The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares of Common Stock then outstanding) by the affirmative vote of the holders of a majority of the stock of the Corporation (voting together on an "as-if-converted" basis).

(C) Two Hundred Sixty-Three Thousand Five Hundred Thirty-Eight (263,538) of the authorized shares of Preferred Stock are hereby designated "Series A Preferred Stock" (the "Series A Preferred"), Six Million Five Hundred Eighty-Four Thousand Four Hundred Eighty-Eight (6,584,488) of the authorized shares of Preferred Stock are hereby designated "Series B Preferred Stock" (the "Series B Preferred"), and Nine Million (9,000,000) of the authorized shares of Preferred Stock are hereby designated "Series C Preferred Stock" (the "Series C Preferred," and together with the Series A Preferred and the Series B Preferred, the "Preferred Stock").

(D) Effective upon the filing of this Restated Certificate of Incorporation, each twenty (20) outstanding shares of Common Stock of the Corporation will be combined into and automatically become one (1) outstanding share of Common Stock of the Corporation and the authorized shares of the Corporation shall remain as set forth in this Restated Certificate of Incorporation. Effective upon the filing of this Restated Certificate of Incorporation, each ten

(10) outstanding shares of Series A Preferred will be combined into and automatically become one (1) outstanding share of Series A Preferred, and each 9.645973 outstanding shares of Series B Preferred will be combined into and automatically become one (1) outstanding share of Series B Preferred. The authorized shares of the Corporation shall remain as set forth in this Restated Certificate of Incorporation. No fractional share shall be issued in connection with the foregoing stock split(s); all shares of a class or series of capital stock so split that are held by a shareholder will be aggregated by such class or series subsequent to the foregoing split and the corporation shall pay in cash the fair value of such fractional shares, as determined in good faith by the corporation's Board of Directors when those entitled to receive such fractional shares are determined.

(E) The rights, preferences, privileges, restrictions and other matters relating to the Preferred Stock are as follows:

1. Dividend Rights.

a. The holders of Series C Preferred, in preference to the holders of Common Stock, the holders of Series A Preferred and the holders of Series B Preferred, shall be entitled to receive when and as declared by the Board of Directors, but only out of funds that are legally available therefor, cash dividends at the rate of eight percent (8%) of the Series C Original Issue Price (as defined below) per annum on each outstanding share of Series C Preferred (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares ("As Adjusted")) during any year in which a dividend is declared. The "Series C Original Issue Price" shall be seventy-seven and twenty-five thousandths cents (\$0.77025) per share, As Adjusted. Such dividends shall be payable only when, as and if declared by the Board of Directors.

b. The holders of Series B Preferred, in preference to the holders of Common Stock and the holders of Series A Preferred but subordinate and subject to the preference of the holders of the Series C Preferred, shall be entitled to receive when and as declared by the Board of Directors, but only out of funds that are legally available therefor, cash dividends at the rate of eight percent (8%) of the Series B Original Issue Price (as defined below) per annum on each outstanding share of Series B Preferred (As Adjusted) during any year in which a dividend is declared. The "Series B Original Issue Price" shall be one dollar forty-three and two ten-thousandths cents (\$1.430002) per share, As Adjusted. Such dividends shall be payable only when, as and if declared by the Board of Directors.

c. The holders of Series A Preferred, in preference to the holders of Common Stock but subordinate and subject to the preference of the holders of the Series B Preferred, shall be entitled to receive when and as declared by the Board of Directors, but only out of funds that are legally available therefor, cash dividends at the rate of eight percent (8%) of the Series A Original Issue Price (as defined below) per annum on each outstanding share of Series A Preferred (As Adjusted) during any year in which a dividend is declared. The "Series A Original Issue Price" shall be ten dollars (\$10.00) per share, As Adjusted. Such dividends shall be payable only when, as and if declared by the Board of Directors.

d. So long as any shares of Preferred Stock shall be outstanding, no dividend, whether in cash or property, shall be paid or declared, nor shall any other distribution be made, on any Common Stock, nor shall any shares of any Common Stock of the Corporation be purchased, redeemed, or otherwise acquired for value by the Corporation (except for acquisitions of Common Stock by the Corporation pursuant to agreements which permit the Corporation to repurchase such shares upon termination of services to the Corporation or in exercise of the Corporation's right of first refusal upon a proposed transfer) until all dividends (set forth in Sections 1(a), 1(b) and 1(c) above), whether or not earned or declared, on the Preferred Stock shall have been paid or declared and set apart. In the event dividends are paid on any share of Common Stock, the holders of Preferred Stock shall participate in such dividends pro rata on an "as-if-converted" basis.

2. Voting Rights.

a. General Rights. Except as otherwise provided herein or as required by law, the Preferred Stock shall be voted along with the shares of the Common Stock of the Corporation and not as a separate class, at any annual or special meeting of stockholders of the Corporation, and may act by written consent in the same manner as the Common Stock, in either case upon the following basis: each holder of shares of Preferred Stock shall be entitled to such number of votes as shall be equal to the number of shares of Common Stock into which such shares of Preferred Stock are then convertible (with any fractional share determined on an aggregate conversion basis being rounded to the nearest whole number, with one half being rounded up).

b. Separate Vote of Preferred. So long as any shares of Preferred Stock remain outstanding, in addition to any other vote or consent required herein or by law, the vote or written consent of the holders of at least a majority of the outstanding shares of Preferred Stock, voting together as a single class on an "as-if-converted" basis, shall be necessary for effecting or validating the following actions:

(1) Any amendment, alteration, repeal or waiver of any provision of the Certificate of Incorporation or the Bylaws of the Corporation (including, without limitation, any filing of a Certificate of Designations, Preferences and Rights (a "Certificate of Designation")) that alters or changes the voting or other powers, preferences, or other special rights, privileges or restrictions of the Series A Preferred, Series B Preferred or Series C Preferred;

(2) Any increase or decrease in the authorized number of shares of Common Stock or Preferred Stock;

(3) Any authorization or any designation, whether by reclassification or otherwise, of any new class or series of stock or any other securities convertible into equity securities of the Corporation ranking on a parity with or senior to any series of Preferred Stock in right of redemption, liquidation preference or dividends or any increase in the authorized or designated number of any such new class or series;

(4) Any redemption, repurchase, payment of dividends or other distributions, or declaration of such dividend or distribution, with respect to Common Stock or Preferred Stock (except for redemptions of Series C Preferred and Series B Preferred pursuant to Section 6, acquisitions of Common Stock by the Corporation pursuant to agreements which permit the Corporation to repurchase such shares upon termination of services to the Corporation, upon termination of a person's employment with the Corporation, or in exercise of the Corporation's right of first refusal upon a proposed transfer) or any action resulting in any of the foregoing;

(5) Any voluntary dissolution or liquidation of the Corporation;

(6) Any agreement regarding an Asset Transfer or Acquisition (each as defined in Section 3(c)); or

(7) Any increase or decrease in the authorized number of members of the Corporation's Board of Directors.

3. Liquidation Rights.

a. Upon any Acquisition (as defined below), Asset Transfer (as defined below), liquidation, dissolution, or winding up of the Corporation (each a "Liquidity Event"), whether voluntary or involuntary, before any distribution or payment shall be made to the holders of any Series B Preferred, Series A Preferred or Common Stock, the holders of Series C Preferred shall be entitled to be paid out of the assets of the Corporation an amount per share of Series C Preferred equal to the Series C Original Issue Price plus all declared and unpaid dividends on the Series C Preferred, As Adjusted, for each share of Series C Preferred held by them (the "Series C Fixed Preference").

If, upon such Liquidity Event, the assets of the Corporation shall be insufficient to make payment in full to all holders of Series C Preferred of the Series C Fixed Preference set forth in this Section 3(a), then such assets shall be distributed among the holders of Series C Preferred at the time outstanding, ratably in proportion to the full amounts to which they would otherwise be entitled.

b. After the payment in full of the Series C Fixed Preference as set forth in Section 3(a) above, the holders of Series B Preferred shall be entitled to be paid out of the assets of the Corporation an amount per share of Series B Preferred equal to the Series B Original Issue Price plus all declared and unpaid dividends on the Series B Preferred, As Adjusted, for each share of Series B Preferred held by them (the "Series B Fixed Preference"). Such right shall be subordinate and subject to the right upon a Liquidity Event of the Series C Preferred to receive the Series C Fixed Preference.

If, upon such Liquidity Event, after satisfaction in full of the Series C Fixed Preference, the assets of the Corporation shall be insufficient to make payment in full to all holders of Series B Preferred of the Series B Fixed Preference set forth in this Section 3(b), then such assets shall be distributed among the holders of Series B Preferred at the time outstanding, ratably in proportion to the full amounts to which they would otherwise be entitled.

c. After the payment in full of the Series C Fixed Preference and the Series B Fixed Preference as set forth in Section 3(a) and Section 3(b) above, the holders of Series A Preferred shall be entitled to be paid out of the assets of the Corporation an amount per share of Series A Preferred equal to the Series A Original Issue Price plus all declared and unpaid dividends on the Series A Preferred, As Adjusted, for each share of Series A Preferred held by them (the "Series A Fixed Preference"). Such right shall be subordinate and subject to the right upon a Liquidity Event of the Series C Preferred to receive the Series C Fixed Preference and the right of the Series B Preferred to receive the Series B Fixed Preference.

If, upon such Liquidity Event, after satisfaction in full of the Series C Fixed Preference and the Series B Fixed Preference, the assets of the Corporation shall be insufficient to make payment in full to all holders of Series A Preferred of the Series A Fixed Preference set forth in this Section 3(c), then such assets shall be distributed among the holders of Series A Preferred at the time outstanding, ratably in proportion to the full amounts to which they would otherwise be entitled.

d. After the payment in full of the Series C Fixed Preference as set forth in Section 3(a) above, the payment in full of the Series B Fixed Preference as set forth in Section 3(b) above and the payment in full of the Series A Fixed Preference as set forth in Section 3(c) above, the assets of the Corporation legally available for distribution, if any, shall be distributed ratably to the holders of the Common Stock and Preferred Stock on an "as-if-converted" basis.

e. For the purposes of Section 3 (unless otherwise agreed by the holders of at least a majority of the then outstanding Preferred Stock, voting together as a single class on an "as-if-converted" basis):

(1) An "Acquisition" shall mean any consolidation or merger of the Corporation with or into any other corporation or other entity or Person, or any other corporate reorganization, in which the stockholders of the Corporation (other than any stockholder or stockholders of the Corporation that (A) merges or combines with the Corporation in such combination transaction or (B) owns or controls a majority of another corporation that merges or combines with the Corporation in such combination transaction (an "Acquiring Stockholder")) immediately prior to such consolidation, merger or reorganization, retain or receive on account of their securities of the Corporation less than fifty percent (50%) of the surviving entity's (or its parent's) voting power immediately after such consolidation, merger or reorganization (including voting power of the surviving entity (or its parent) held by an Acquiring Stockholder), or any transaction or series of related transactions in which in excess of fifty percent (50%) of the Corporation's voting power is acquired by a Person or a group of Persons;

(2) an "Asset Transfer" shall mean a sale, lease or other disposition of all or substantially all of the assets of the Corporation; and

(3) "Person" means an individual, a corporation, a partnership, a limited liability company, a trust, an unincorporated organization or governmental organization or an agency or political subdivision thereof.

f. In any Acquisition or Asset Transfer, if the consideration to be received is securities of a corporation or other property other than cash, its value will be deemed its fair market value as determined in good faith by the Board of Directors.

4. **Conversion Rights.** The holders of the Preferred Stock shall have the following rights with respect to the conversion of the Preferred Stock into shares of Common Stock (the "Conversion Rights"):

a. **Optional Conversion.** Subject to and in compliance with the provisions of this Section 4, any shares of Series A Preferred, Series B Preferred or Series C Preferred may, at the option of the holder, be converted at any time into fully-paid and nonassessable shares of Common Stock. The number of shares of Common Stock to which a holder of Series A Preferred, Series B Preferred or Series C Preferred shall be entitled upon conversion shall be the product obtained by multiplying the applicable "Series Preferred Conversion Rate" then in effect (determined as provided in Section 4(b)) by the number of shares of such series of Preferred Stock being converted.

b. **Series Preferred Conversion Rate.** The conversion rate in effect at any time for conversion of a series of Preferred Stock (the "Series Preferred Conversion Rate") shall be the quotient obtained by dividing the Original Issue Price of such series of Preferred Stock by the applicable "Series Preferred Conversion Price," calculated as provided in Section 4(c).

c. **Conversion Price.** After giving effect to the filing of this Restated Certificate of Incorporation, the conversion price for the Series A Preferred shall initially be ten dollars (\$10.00) (the "Series A Preferred Conversion Price"), the conversion price for the Series B Preferred shall initially be one dollar forty-three and two ten-thousandths cents (\$1.430002) (the "Series B Preferred Conversion Price"), and the conversion price for the Series C Preferred shall initially be seventy-seven and twenty-five thousandths cents (\$0.77025) (the "Series C Preferred Conversion Price," and together with the Series A Preferred Conversion Price and the Series B Preferred Conversion Price, the "Series Preferred Conversion Prices"). Such initial Series Preferred Conversion Prices shall be adjusted from time to time after the date of filing of this Restated Certificate of Incorporation in accordance with this Section 4. All references to a "Series Preferred Conversion Price" herein shall mean the applicable "Series Preferred Conversion Price" as so adjusted.

d. **Mechanics of Conversion.** Each holder of Preferred Stock who desires to convert the same into shares of Common Stock pursuant to this Section 4 shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Corporation or any transfer agent for such series of Preferred Stock, and shall give written notice to the Corporation at such office that such holder elects to convert the same. Such notice shall state the number of shares of each series of Preferred Stock being converted. Thereupon, the Corporation shall promptly (but in no event more than three (3) business days after delivery of the notice required by the first sentence of this Section 4(d)) issue and deliver at such office to such holder a certificate or certificates for the number of shares of Common Stock to which such holder is entitled (including fractional shares). In lieu of issuing fractional shares, the Board of Directors may elect to pay in cash (at the Common Stock's fair market value determined by the Board of

Directors as of the date of conversion) the value of any fractional share of Common Stock otherwise issuable to any holder of Preferred Stock as a result of such conversion. Such conversion shall be deemed to have been made at the close of business on the date of such surrender of the certificates representing the shares of Preferred Stock to be converted, and the person entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder of such shares of Common Stock on such date.

e. Adjustment for Stock Splits and Combinations. If the Corporation shall at any time or from time to time after the date of filing of this Restated Certificate of Incorporation effect a subdivision of the outstanding Common Stock without a corresponding subdivision of such series of Preferred Stock, the applicable Series Preferred Conversion Price in effect immediately before that subdivision shall be proportionately decreased. Conversely, if the Corporation shall at any time or from time to time after the date of filing of this Restated Certificate of Incorporation combine the outstanding shares of Common Stock into a smaller number of shares without a corresponding combination of such series of Preferred Stock, the applicable Series Preferred Conversion Price in effect immediately before the combination shall be proportionately increased. Any adjustment under this Section 4(e) shall become effective at the close of business on the date the subdivision or combination becomes effective.

f. Adjustment for Common Stock Dividends and Distributions. If the Corporation at any time or from time to time after the date of filing of this Restated Certificate of Incorporation makes, or fixes a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable in additional shares of Common Stock, in each such event the applicable Series Preferred Conversion Price that is then in effect shall be decreased as of the time of such issuance or, in the event such record date is fixed, as of the close of business on such record date, by multiplying the applicable Series Preferred Conversion Price then in effect by a fraction (i) the numerator of which is the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date and (ii) the denominator of which is the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date plus the number of shares of Common Stock issuable in payment of such dividend or distribution.

g. Adjustment for Reclassification, Exchange and Substitution. If at any time or from time to time after the date of filing of this Restated Certificate of Incorporation, the Common Stock issuable upon the conversion of such series of Preferred Stock is changed into the same or a different number of shares of any class or classes of stock, whether by recapitalization, reclassification or otherwise (other than an Acquisition or Asset Transfer that is deemed to constitute a liquidation or a subdivision or combination of shares or stock dividend or a reorganization, merger, consolidation or sale of assets provided for elsewhere in this Section 4), in any event each holder of such series of Preferred Stock shall have the right thereafter to convert such stock into the kind and amount of stock and other securities and property receivable upon such recapitalizations, reclassification or other change by holders of the maximum number of shares of Common Stock into which such shares of such series of Preferred Stock could have been converted immediately prior to such recapitalization, reclassification or change, all subject to further adjustment as provided herein or with respect to such other securities or property by the terms thereof.

h. Reorganizations, Mergers or Consolidations. If at any time or from time to time after the date of filing of this Restated Certificate of Incorporation, there is a capital reorganization of the Common Stock or the merger or consolidation of the Corporation with or into another corporation or another entity or person (other than an Acquisition or Asset Transfer that is deemed to constitute a liquidation or a recapitalization, subdivision, combination, reclassification, exchange or substitution of shares provided for elsewhere in this Section 4), as a part of such capital reorganization, provision shall be made so that the holders of each series of Preferred Stock shall thereafter be entitled to receive upon conversion of such series of Preferred Stock the number of shares of stock or other securities or property of the corporation to which a holder of the number of share of Common Stock deliverable upon conversion would have been entitled on such capital reorganization, subject to adjustment in respect of such stock or securities by the terms thereof. In any such case, appropriate adjustment shall be made in the application of the provisions of this Section 4 with respect to the rights of the holders of each series of Preferred Stock after the capital reorganization to the end that the provisions of this Section 4 (including adjustment of the applicable Series Preferred Conversion Price then in effect and the number of shares issuable upon conversion of the such series of Preferred Stock) shall be applicable after that event and be as nearly equivalent as practicable.

i. Sale of Shares Below Series C Preferred Conversion Price.

(1) If at any time or from time to time after the date of filing of this Restated Certificate of Incorporation, the Corporation issues or sells, or is deemed by the express provisions of this Section 4(i) to have issued or sold, Additional Shares of Common Stock (as defined in Section 4(i)(4) below), other than as a dividend or other distribution on any class of stock as provided in Section 4(f) above, and other than a subdivision or combination of shares of Common Stock as provided in Section 4(e) above, for an Effective Price (as defined in Section 4(i)(4) below) less than the then existing Series C Preferred Conversion Price, then and in each such case the then existing Series Preferred Conversion Prices shall be reduced, as of the opening of business on the date of such issue or sale, to a price determined by multiplying the applicable Series Preferred Conversion Price in effect immediately prior to such issuance or sale by a fraction:

(a) the numerator of which shall be (A) the number of shares of Common Stock deemed outstanding (as determined below) immediately prior to such issue or sale, plus (B) the number of shares of Common Stock which the Aggregate Consideration (as defined below) received by the Corporation for the total number of Additional Shares of Common Stock so issued would purchase at the Series C Preferred Conversion Price, and

(b) the denominator of which shall be the number of shares of Common Stock deemed outstanding (as determined below) immediately prior to such issue or sale plus the total number of Additional Shares of Common Stock so issued.

For the purposes of the preceding sentence, the number of shares of Common Stock deemed to be outstanding as of a given date shall be the sum of (A) the number of shares of Common Stock outstanding and (B) the number of shares of Common Stock

into which the then outstanding shares of Preferred Stock could be converted if fully converted on the day immediately preceding the given date.

(2) For the purpose of making any adjustment required under this Section 4(i), the consideration received by the Corporation for any issue or sale of securities (the "Aggregate Consideration") shall (A) to the extent it consists of cash, be computed at the net amount of cash received by the Corporation after deduction of any underwriting or similar commissions, compensation or concessions paid or allowed by the Corporation in connection with such issue or sale but without deduction of any expenses payable by the Corporation, (B) to the extent it consists of property other than cash, be computed at the fair market value of that property as determined in good faith by the Board of Directors, and (C) if Additional Shares of Common Stock, Convertible Securities (as defined in Section 4(i)(3)) or rights or options to purchase either Additional Shares of Common Stock or Convertible Securities are issued or sold together with other stock or securities or other assets of the Corporation for a consideration which covers both, be computed as the portion of the consideration so received that may be reasonably determined in good faith by the Board of Directors to be allocable to such Additional Shares of Common Stock, Convertible Securities or rights or options.

(3) For the purpose of the adjustment required under this Section 4(i), if the Corporation issues or sells (i) stock or other securities convertible into Additional Shares of Common Stock (such convertible stock or securities being herein referred to as "Convertible Securities") or (ii) rights, warrants or options for the purchase of Additional Shares of Common Stock or Convertible Securities and if the Effective Price of such Additional Shares of Common Stock is less than the Series C Preferred Conversion Price, the Corporation shall be deemed to have issued at the time of the issuance of such rights or options or Convertible Securities the maximum number of Additional Shares of Common Stock issuable upon exercise or conversion thereof and to have received as consideration for the issuance of such shares an amount equal to the total amount of the consideration, if any, received by the Corporation for the issuance of such rights, warrants or options or Convertible Securities, plus, in the case of such rights or options, the minimum amounts of consideration, if any, payable to the Corporation upon the exercise of such rights or options, plus, in the case of Convertible Securities, the minimum amounts of consideration, if any, payable to the Corporation (other than by cancellation of liabilities or obligations evidenced by such Convertible Securities) upon the conversion thereof; *provided*, that if in the case of Convertible Securities the minimum amounts of such consideration cannot be ascertained, but are a function of antidilution or similar protective clauses, the Corporation shall be deemed to have received the minimum amounts of consideration without reference to such clauses; *provided further*, that if the minimum amount of consideration payable to the Corporation upon the exercise or conversion of rights, warrants or options or Convertible Securities is reduced, or the number of Additional Shares of Common Stock issued upon such exercise or conversion is increased, over time or on the occurrence or non-occurrence of specified events other than by reason of antidilution adjustments, the Effective Price shall be recalculated using the figure to which such minimum amount of consideration is reduced or the number of Additional Shares of Common Stock to be issued shall be recalculated using the figure to which the number of such shares is increased; *provided further*, that if the minimum amount of consideration payable to the Corporation upon the exercise or conversion of such rights, options or Convertible Securities is subsequently increased, or the number of Additional Shares of Common Stock issued upon such exercise or conversion is subsequently

decreased, over time or on the occurrence or non-occurrence of specified events other than by reason of antidilution adjustments, the Effective Price shall be again recalculated using the increased minimum amount of consideration payable to the Corporation upon the exercise or conversion of such rights, options or Convertible Securities, or the number of Additional Shares of Common Stock to be issued shall be again recalculated using the figure to which the number of such shares is decreased. No further adjustment of the Series Preferred Conversion Prices, as adjusted upon the issuance of such rights, options or Convertible Securities, shall be made as a result of the actual issuance of Additional Shares of Common Stock on the exercise of any such rights or options or the conversion of any such Convertible Securities. If any such rights or options or the conversion privilege represented by any such Convertible Securities shall expire without having been exercised, the Series Preferred Conversion Prices as adjusted upon the issuance of such rights, options or Convertible Securities shall be readjusted to the Series Preferred Conversion Prices which would have been in effect had an adjustment been made on the basis that the only Additional Shares of Common Stock so issued were the Additional Shares of Common Stock, if any, actually issued or sold on the exercise of such rights or options or rights of conversion of such Convertible Securities, and such Additional Shares of Common Stock, if any, were issued or sold for the consideration actually received by the Corporation upon such exercise, plus the consideration, if any, actually received by the Corporation for the granting of all such rights or options, whether or not exercised, plus the consideration received for issuing or selling the Convertible Securities actually converted, plus the consideration, if any, actually received by the Corporation (other than by cancellation of liabilities or obligations evidenced by such Convertible Securities) on the conversion of such Convertible Securities.

(4) "Additional Shares of Common Stock" shall mean all shares of Common Stock issued by the Corporation or deemed to be issued pursuant to this Section 4(i), other than (A) shares of Common Stock issued upon conversion of the outstanding shares of the Preferred Stock or upon the conversion of Preferred Stock acquired upon exercise of outstanding warrants to purchase Preferred Stock; (B) three million three hundred seventy-five thousand five hundred forty-nine (3,375,549) shares of Common Stock and/or options, warrants or other Common Stock purchase rights, and the Common Stock issued pursuant to such options, warrants or other rights to employees, officers or directors of, or consultants or advisors to the Corporation or any subsidiary pursuant to stock purchase or stock option plans or other arrangements that were previously approved by the Board of Directors or that are subsequently approved by the holders of a majority of the Preferred Stock; and (C) shares of Common Stock issued (or deemed issued) as to which the holders of a majority of the then outstanding shares of Preferred Stock (voting together as a single class on an "as-if-converted" basis) consent in writing to such shares not being treated as Additional Shares of Common Stock. The "Effective Price" of Additional Shares of Common Stock shall mean the quotient determined by dividing the total number of Additional Shares of Common Stock issued or sold, or deemed to have been issued or sold by the Corporation under this Section 4(i), into the aggregate consideration received, or deemed to have been received by the Corporation for such issue under this Section 4(i), for such Additional Shares of Common Stock.

j. Certificate of Adjustment. In each case of an adjustment or readjustment of an applicable Series Preferred Conversion Price for the number of shares of Common Stock or other securities issuable upon conversion of such series of Preferred Stock, if

such series of Preferred Stock is then convertible pursuant to this Section 4, the Corporation, at its expense, shall compute such adjustment or readjustment in accordance with the provisions hereof and prepare a certificate showing such adjustment or readjustment, and shall mail such certificate, by first class mail, postage prepaid, to each registered holder of such series of Preferred Stock at the holder's address as shown in the Corporation's books. The certificate shall set forth such adjustment or readjustment, showing in detail the facts upon which such adjustment or readjustment is based, including a statement of (i) the consideration received or deemed to be received by the Corporation for any Additional Shares of Common Stock issued or sold or deemed to have been issued or sold, (ii) the applicable Series Preferred Conversion Price at the time in effect, (iii) the number of Additional Shares of Common Stock, and (iv) the type and amount, if any, of other property which at the time would be received upon conversion of such series of Preferred Stock.

k. Notices of Record Date. Upon (i) any taking by the Corporation of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend or other distribution, or (ii) any Acquisition or other capital reorganization of the Corporation, any reclassification or recapitalization of the capital stock of the Corporation, any merger or consolidation of the Corporation with or into any other corporation, or any Asset Transfer, or any voluntary or involuntary dissolution, liquidation or winding up of the Corporation, the Corporation shall mail to each holder of a series of Preferred Stock at least ten (10) days prior to the record date specified therein (or such shorter period approved by a majority of the outstanding Series C Preferred) a notice specifying (A) the date on which any such record is to be taken for the purpose of such dividend or distribution and a description of such dividend or distribution, (B) the date on which any such Acquisition, reorganization, reclassification, transfer, consolidation, merger, Asset Transfer, dissolution, liquidation or winding up is expected to become effective, and (C) the date, if any, that is to be fixed as to when the holders of record of Common Stock and Preferred Stock (or other securities) shall be entitled to exchange their shares of Common Stock (or other securities) for securities or other property deliverable upon such Acquisition, reorganization, reclassification, transfer, consolidation, merger, Asset Transfer, dissolution, liquidation or winding up.

l. Automatic Conversion.

(1) Each share of Series A Preferred, Series B Preferred and Series C Preferred shall automatically be converted into shares of Common Stock, based on the then-effective applicable Series Preferred Conversion Price, (A) at any time upon the affirmative election of the holders of a majority of the then-outstanding shares of the Series C Preferred, or (B) immediately upon the closing of a firm commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, covering the offer and sale of Common Stock for the account of the Corporation in which the gross cash proceeds to the Corporation (before underwriting discounts, commissions and fees) are at least \$35,000,000 (a "Qualified IPO"). Upon such automatic conversion, any declared and unpaid dividends shall be paid in cash.

(2) Upon the occurrence of any of the events specified in Section 4(l) above, the outstanding shares of Preferred Stock shall be converted automatically without any further action by the holders of such shares and whether or not the certificates

representing such shares are surrendered to the Corporation or its transfer agent, *provided, however*, that the Corporation shall not be obligated to issue certificates evidencing the shares of Common Stock issuable upon such conversion unless the certificates evidencing such shares of Preferred Stock are either delivered to the Corporation or its transfer agent as provided below, or the holder notifies the Corporation or its transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement reasonably satisfactory to the Corporation to indemnify the Corporation from any loss incurred by it in connection with such certificates. Upon the occurrence of such automatic conversion of the Preferred Stock, the holders of such series of Preferred Stock shall surrender the certificates representing such shares at the office of the Corporation or any transfer agent for the Preferred Stock. Thereupon, there shall be issued and delivered to such holder promptly at such office and in its name as shown on such surrendered certificate or certificates, a certificate or certificate for the number of shares of Common Stock into which the Preferred Stock surrendered were convertible on the date on which such automatic conversion occurred, and any cumulated and unpaid dividends shall be paid, in accordance with the provisions of Section 4(d).

m. Reservation of Stock Issuable Upon Conversion. The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of the shares of Preferred Stock, such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of each series of Preferred Stock. 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 each series of Preferred Stock, the Corporation will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized by unissued shares of Common Stock to such number of shares as shall be sufficient for such purpose.

n. Notices. Any notice required by the provisions of this Section 4 shall be in writing and shall be deemed effectively given: (i) upon personal delivery to the party to be notified, (ii) when sent by confirmed facsimile if sent during normal business hours of the recipient; if not, then on the next business day, (iii) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (iv) one (1) day after deposit with a nationally recognized overnight courier, specifying next day delivery, with verification of receipt. All notices shall be addressed to each holder of record at the address of such holder appearing on the books of the Corporation.

o. Payment of Taxes. The Corporation will pay all taxes (other than taxes based upon income) and other governmental charges that may be imposed with respect to the issue or delivery of shares of Common Stock upon conversion of shares of a series of Preferred Stock, excluding any tax or other charge imposed in connection with any transfer involved in the issue and delivery of shares of Common Stock in a name other than that in which the shares of such series of Preferred Stock so converted were registered.

p. No Dilution or Impairment. Without the consent of the holders of then outstanding shares Series A Preferred, Series B Preferred and Series C Preferred (voting together as a single class on an "as-if-converted" basis) as required under Section 2(b), the Corporation shall not amend its Certificate of Incorporation or participate in any reorganization,

Asset Transfer, consolidation, merger, dissolution, issue or sale of securities or take any other voluntary action, for the purpose of avoiding or seeking to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Corporation, but shall at all times in good faith assist in carrying out all such action as may be reasonably necessary or appropriate in order to protect the conversion rights of the holders of each series of Preferred Stock against dilution or other impairment.

5. Board of Directors.

- a. The Board of Directors shall consist of five (5) members.
- b. For so long as any shares of Preferred Stock are outstanding, the holders of the Preferred Stock, voting together as a separate class on an as-if-converted basis, shall be entitled to elect two (2) members of the Board of Directors, and to remove from office such directors and to fill any vacancy caused by the resignation, death or removal of such directors.
- c. The holders of Common Stock and Preferred Stock, voting together as a single class on an as-if-converted basis, shall be entitled to elect all remaining members of the Board of Directors, and to remove from office such directors and to fill any vacancy caused by the resignation, death or removal of such directors.

6. Redemption.

- a. The Corporation shall be obligated to redeem the Series C Preferred as follows:

(1) The holders of at least a majority of the then outstanding shares of Series C Preferred, voting together as a single class, may require the Corporation, to the extent it may lawfully do so and subject to any liquidation preference rights which may have been previously invoked under Section 3 hereof, to redeem the Series C Preferred in three (3) annual installments beginning not prior to the fifth anniversary of the date on which the first share of Series C Preferred is issued by the Corporation (the "Original Issue Date"), and ending on the date two (2) years from such first redemption date (each a "Series C Redemption Date"); provided that immediately following any such redemption, the Corporation shall have outstanding one (1) or more shares of one (1) or more classes or series of stock, which share, or shares together, shall have full voting rights. Such rights to redeem Series C Preferred will have priority over any similar rights to redeem Series B Preferred. The Corporation shall effect such redemptions on the applicable Series C Redemption Date by paying in cash in exchange for the shares of Series C Preferred to be redeemed a sum equal to the Series C Original Issue Price per share of Series C Preferred (As Adjusted) plus declared and unpaid dividends with respect to such shares. The total amount to be paid for the Series C Preferred is hereinafter referred to as the "Series C Redemption Price." The number of shares of Series B Preferred that the Corporation shall be required to redeem on any one Series C Redemption Date shall be equal to the amount determined by dividing (A) the aggregate number of shares of Series C Preferred outstanding immediately prior to the Series C Redemption Date by (B) the number of remaining Series C Redemption Dates (including the Series C Redemption Date to which such calculation

applies). Shares subject to redemption pursuant to this Section 6(a) shall be redeemed from each holder of Series C Preferred on a pro rata basis, based on the number of shares then held.

(2) At least thirty (30) days but no more than sixty (60) days prior to the first Series C Redemption Date, the Corporation shall send a notice (a "Series C Redemption Notice") to all holders of Series C Preferred to be redeemed setting forth (A) the portion of the Series C Redemption Price payable for the shares to be redeemed and (B) the place at which such holders may obtain payment of the applicable portion of the Series C Redemption Price upon surrender of their share certificates. If the Corporation does not have sufficient funds legally available to redeem all shares to be redeemed at the Series C Redemption Date (including, if applicable, those to be redeemed at the option of the Corporation), then it shall so notify such holders and shall redeem such share pro rata (based on the portion of the aggregate Series C 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.

b. The Corporation shall be obligated to redeem the Series B Preferred as follows:

(1) The holders of at least a majority of the then outstanding shares of Series B Preferred, voting together as a single class, may require the Corporation, to the extent it may lawfully do so and subject to any liquidation preference rights which may have been previously invoked under Section 3 hereof and to the redemption rights of the Series C Preferred which may have been previously invoked under Section 6(a) hereof, to redeem the Series B Preferred in three (3) annual installments beginning not prior to the fifth anniversary of the Original Issue Date, and ending on the date two (2) years from such first redemption date (each a "Series B Redemption Date," and together with the Series C Redemption Dates, each a "Redemption Date"); provided that immediately following any such redemption, the Corporation shall have outstanding one (1) or more shares of one (1) or more classes or series of stock, which share, or shares together, shall have full voting rights. The Corporation shall effect such redemptions on the applicable Series B Redemption Date by paying in cash in exchange for the shares of Series B Preferred to be redeemed a sum equal to the Series B Original Issue Price per share of Series B Preferred (As Adjusted) plus declared and unpaid dividends with respect to such shares. The total amount to be paid for the Series B Preferred is hereinafter referred to as the "Series B Redemption Price," and together with the Series C Redemption Price, each a "Redemption Price"). The number of shares of Series B Preferred that the Corporation shall be required to redeem on any one Series B Redemption Date shall be equal to the amount determined by dividing (A) the aggregate number of shares of Series B Preferred outstanding immediately prior to the Series B Redemption Date by (B) the number of remaining Series B Redemption Dates (including the Series B Redemption Date to which such calculation applies). Shares subject to redemption pursuant to this Section 6(b) shall be redeemed from each holder of Series B Preferred on a pro rata basis, based on the number of shares then held.

(2) At least thirty (30) days but no more than sixty (60) days prior to the first Series B Redemption Date, the Corporation shall send a notice (a "Series B Redemption Notice") to all holders of Series B Preferred to be redeemed setting forth (A) the portion of the Series B Redemption Price payable for the shares to be redeemed and (B) the place at which such holders may obtain payment of the applicable portion of the Series B Redemption

Price upon surrender of their share certificates. If the Corporation does not have sufficient funds legally available to redeem all shares to be redeemed at the applicable Series B Redemption Date (including, if applicable, those to be redeemed at the option of the Corporation), then it shall so notify such holders and shall redeem such share pro rata (based on the portion of the aggregate Series B 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.

c. On or prior to each Redemption Date, the Corporation shall deposit the portion of the applicable Redemption Price payable in respect 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 portion of the applicable Redemption Price payable in respect of the shares to their respective holders upon the surrender of their share certificates. Any moneys deposited by the Corporation pursuant to this Section 6(c) for the redemption of shares thereafter converted into shares of Common Stock pursuant to Section 4 hereof no later than the fifth (5th) day preceding the applicable Redemption Date shall be returned to the Corporation forthwith upon such conversion. The balance of any funds deposited by the Corporation pursuant to this Section 6(c) remaining unclaimed at the expiration of one (1) year following such Redemption Date shall be returned to the Corporation promptly upon its written request.

d. On or after each such Redemption Date, each holder of shares of Series C Preferred or Series B Preferred to be redeemed shall surrender such holder's certificates representing such shares to the Corporation in the manner and at the place designated in the Redemption Notice, and thereupon the portion of the applicable Redemption Price payable in respect 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 portion of the applicable Redemption Price payable or the Corporation is unable to pay the portion of the applicable Redemption Price due to not having sufficient legally available funds, all rights of the holder of such shares as holder of Series C Preferred or Series B Preferred (except the right to receive the portion of the applicable 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 Series C Preferred or Series B Preferred are not redeemed due to a default in payment by the Corporation or because the Corporation does not have sufficient legally available funds, such shares of Series C Preferred or Series B Preferred shall remain outstanding and shall be entitled to all of the rights and preferences provided herein until redeemed.

e. In the event of a call for redemption of any shares of Series C Preferred or Series B Preferred, the Conversion Rights (as defined in Section 4) for such Series C Preferred or Series B Preferred shall terminate as to the shares designated for redemption at the close of business on the fifth (5th) day preceding the applicable Redemption Date, unless default is made in payment of the Redemption Price.

V.

Elections of directors need not be by written ballot, unless otherwise provided in the Bylaws.

VI.

In furtherance and not in limitation of the powers conferred by statute, the Board of Directors of the Corporation is expressly authorized to adopt, alter and repeal the Bylaws of the Corporation.

VII.

To the fullest extent permitted by the GCL, a director of the Corporation shall not liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. All references in this paragraph to a director shall also be deemed to refer to such other person or persons, if any, who, pursuant to any provision of this Certificate of Incorporation in accordance with subsection (a) of Section 141 of Title 8 of the GCL, exercise or perform any of the powers or duties otherwise conferred or imposed upon the board of directors by Title 8 of the GCL. The Corporation shall indemnify each director, officer, trustee, employee or agent of the Corporation and each person who is or was serving at the request of the Corporation as a director, officer, trustee, employee or agent of another corporation, partnership, joint venture, trust or other enterprise in the manner and to the fullest extent provided in Section 145 of the GCL as the same now exists or may hereafter be amended.

VIII.

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 on the application of any receiver or receivers appointed for this Corporation under the provisions of Section 291 of Title 8 of the GCL 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 GCL 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 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 a consequence of such compromise or arrangement, said compromise or arrangement and said reorganization shall, if sanctioned by the court to which 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 this Corporation.

IX.

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.