

**AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF
4INFO, INC.**

4INFO, INC., a corporation organized and existing under the laws of the State of Delaware, hereby certifies as follows:

FIRST: The name of the corporation is 4INFO, Inc.

SECOND: The original Certificate of Incorporation of the corporation was filed with the Secretary of State of Delaware on August 25, 2004 under the name SMSLocate, Inc.

THIRD: Pursuant to Sections 228, 242 and 245 of the General Corporation Law of the State of Delaware, this Amended and Restated Certificate of Incorporation restates, integrates and further amends the provisions of the Certificate of Incorporation of the corporation.

FOURTH: The Certificate of Incorporation of the corporation shall be amended and restated to read in full as follows:

ARTICLE I

The name of the corporation is 4INFO, Inc. (the "Company").

ARTICLE II

The address of the Company's registered office in the State of Delaware is 251 Little Falls Drive, Wilmington, Delaware 19808, County of New Castle. The name of the Company's registered agent at such address is Corporation Service Company.

ARTICLE III

The purpose of the Company is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware (the "General Corporation Law").

ARTICLE IV

A. Classes of Stock. The total number of shares of all classes of capital stock that the Company shall have authority to issue is 253,502,224 of which 150,000,000 shares, par value of \$0.001 per share, shall be Common Stock (the "Common Stock") and 103,502,224 shares, par value of \$0.001 per share, shall be Preferred Stock (the "Preferred Stock").

The Preferred Stock shall be divided into three series. The first series shall be designated "Series A-1 Preferred Stock" and shall consist of 60,329,692 shares. The second series shall be designated "Series A-2 Preferred Stock" and shall consist of 9,312,318 shares. The third series

shall be designated “Series B-1 Preferred Stock” and shall consist of 16,602,981 shares. The fourth series shall be designated “Series B-2 Preferred Stock” and shall consist of 17,257,233 shares.

B. Rights, Preferences and Restrictions of Preferred Stock. The Preferred Stock shall have such voting power, preferences and relative, participating, optional or other special rights, and the qualifications, limitations or restrictions thereof, as follows:

1. Dividend Provisions.

(a) The holders of shares of Series A-1 Preferred Stock shall be entitled to receive dividends, out of any assets legally available therefor, prior and in preference to any declaration or payment of any dividend or distribution (payable other than in Common Stock or other securities and rights convertible into or entitling the holder thereof to receive, directly or indirectly, shares of Common Stock of the Company) on the Series B-2 Preferred Stock, Series B-1 Preferred Stock, Series A-2 Preferred Stock or the Common Stock or any other junior equity security of the Company, at the rate of eight percent (8%) of the Original Series A-1 Issue Price (as defined below) per share per annum; provided, however, that this restriction shall not apply to repurchases of capital stock of the Company made in accordance with Section 6. Such dividends shall be cumulative, shall be compounded annually and shall accrue on each such share of Series A-1 Preferred Stock from the respective original date of issue of such share based on a three hundred sixty-five (365) day year, whether or not earned or declared, but shall be payable only when, as and if declared by the Board of Directors. The holders of the outstanding Series A-1 Preferred Stock can waive any dividend preference that such holders shall be entitled to receive under this Section 1 upon the affirmative vote or written consent of the holders of at least two-thirds (2/3) of the Series A-1 Preferred Stock then outstanding.

(b) After payment of such dividends to the holders of the Series A-1 Preferred Stock as provided in subsection 1(a) above, any additional dividends or distributions shall be distributed among all holders of Common Stock and Preferred Stock in proportion to the number of shares of Common Stock that would be held by each such holder if all shares of Preferred Stock were converted to Common Stock at the then effective Conversion Ratio.

(c) The Company shall not make any distribution of securities of other persons, cash or other property without consideration, whether by way of dividend or otherwise, to the holders of Common Stock except in accordance with this Section 1.

2. Liquidation Preference.

(a) In the event of any liquidation, dissolution or winding up of the Company, either voluntary or involuntary, the holders of the Series B-2 Preferred Stock shall be entitled to receive, prior and in preference to any distribution of any of the assets of the Company to the holders of the Series B-1 Preferred Stock, Series A-1 Preferred Stock, Series A-2 Preferred Stock and Common Stock or other junior equity security of the Company by reason of their ownership thereof, an amount per share equal to the Original Series B-2 Issue Price (as defined below), plus all declared but unpaid dividends on such share. If upon the occurrence of such event, the assets and funds thus distributed among the holders of the Series B-2 Preferred Stock

shall be insufficient to permit the payment to such holders of the full aforesaid preferential amount, then the entire assets and funds of the Company legally available for distribution shall be distributed ratably among the holders of the Series B-2 Preferred Stock in proportion to the full preferential amount that each such holder is otherwise entitled to receive under this subsection (a). “Original Series B-2 Issue Price” shall mean \$0.3524 per share for each share of the Series B-2 Preferred Stock (as adjusted for any dividends, combinations, splits, recapitalizations and the like after the filing date hereof).

(b) Upon completion of the distribution required by Section 2(a), in the event of any liquidation, dissolution or winding up of the Company, either voluntary or involuntary, the holders of the Series B-1 Preferred Stock shall be entitled to receive, prior and in preference to any distribution of any of the assets of the Company to the holders of the Series A-1 Preferred Stock, Series A-2 Preferred Stock and Common Stock or other junior equity security of the Company by reason of their ownership thereof, an amount per share equal to the Original Series B-1 Issue Price (as defined below), plus all declared but unpaid dividends on such share. If upon the occurrence of such event, the assets and funds thus distributed among the holders of the Series B-1 Preferred Stock shall be insufficient to permit the payment to such holders of the full aforesaid preferential amount, then the entire assets and funds of the Company legally available for distribution shall be distributed ratably among the holders of the Series B-1 Preferred Stock in proportion to the full preferential amount that each such holder is otherwise entitled to receive under this subsection (a). “Original Series B-1 Issue Price” shall mean \$0.5496 per share for each share of the Series B-1 Preferred Stock (as adjusted for any dividends, combinations, splits, recapitalizations and the like after the filing date hereof).

(c) Upon completion of the distributions required by Sections 2(a) and 2(b), in the event of any liquidation, dissolution or winding up of the Company, either voluntary or involuntary, the holders of the Series A-1 Preferred Stock shall be entitled to receive, prior and in preference to any distribution of any of the assets of the Company to the holders of the Series A-2 Preferred Stock and Common Stock or other junior equity security of the Company by reason of their ownership thereof, an amount per share equal to one and one-half (1 1/2) times the Original Series A-1 Issue Price (as defined below) plus all dividends accrued but unpaid thereon, whether or not declared, together with any other dividends declared but unpaid thereon. If upon the occurrence of such event, the assets and funds thus distributed among the holders of the Series A-1 Preferred Stock shall be insufficient to permit the payment to such holders of the full aforesaid preferential amount, then the entire assets and funds of the Company legally available for distribution shall be distributed ratably among the holders of the Series A-1 Preferred Stock in proportion to the full preferential amount that each such holder is otherwise entitled to receive under this subsection (b). “Original Series A-1 Issue Price” shall mean \$0.137146 per share for each share of the Series A-1 Preferred Stock (as adjusted for any dividends, combinations, splits, recapitalizations and the like after the filing date hereof).

(d) Upon the completion of the distributions required by Sections 2(a) through 2(c), in the event of any liquidation, dissolution or winding up of the Company, either voluntary or involuntary, the holders of the Series A-2 Preferred Stock shall be entitled to receive, prior and in preference to any distribution of any of the assets of the Company to the holders of the Common Stock or other junior equity security of the Company by reason of their ownership thereof, an amount per share equal to \$1.3068 for each outstanding share of Series A-

2 Preferred Stock (the “Original Series A-2 Issue Price”), plus all declared but unpaid dividends on such share. If upon the occurrence of such event, the assets and funds thus distributed among the holders of the Series A-2 Preferred Stock shall be insufficient to permit the payment to such holders of the full aforesaid preferential amount, then the entire assets and funds of the Company legally available for distribution shall be distributed ratably among the holders of the Series A-2 Preferred Stock in proportion to the full preferential amount that each such holder is otherwise entitled to receive under this subsection (c).

(e) Upon the completion of the distributions required by Sections 2(a) through 2(d), the entire remaining assets and funds of the Company legally available for distribution, if any, shall be distributed among the holders of the Series B-2 Preferred Stock, Series A-1 Preferred Stock, the Series A-2 Preferred Stock and the Common Stock pro rata based on the number of shares of Common Stock held by each (on an as-converted basis with respect to the Preferred Stock).

(f)

(i) For purposes of this Section 2, a liquidation, dissolution or winding up of the Company shall be deemed to be occasioned by, or to include, (A) the acquisition of the Company by another entity by means of any transaction or series of related transactions (including, without limitation, any reorganization, merger or consolidation but, excluding any merger effected exclusively for the purpose of changing the domicile of the Company); (B) a sale or lease of all or substantially all of the assets of the Company; unless the Company’s stockholders of record as constituted immediately prior to such Acquisition (as defined below) will, immediately after such Acquisition (by virtue of securities issued as consideration for the Acquisition or otherwise) hold at least 50% of the voting power of the surviving or acquiring entity; or (C) an exclusive licensing of all or substantially all of the Company’s intellectual property to a third party (any such acquisition, sale or licensing described in clause (A), (B) or (C), an “Acquisition”). In such event, and subject to subsection 2(g) below, the holders of Preferred Stock and Common Stock shall be entitled to receive at the closing of such Acquisition in cash, securities or other property amounts as specified in subsections 2(a) through 2(e).

(ii) In any of such events, if the consideration received by the Company is other than cash, its value will be deemed its fair market value. Any securities shall be valued as follows:

(A) Securities not subject to investment letter or other similar restrictions on free marketability:

(1) If traded on a U.S. securities exchange, the value shall be deemed to be the average of the closing prices of the securities on such exchange over the 20-day period ending two (2) days prior to the closing of such liquidation, dissolution or winding up of the Company;

(2) If actively traded over-the-counter, the value shall be deemed to be the average of the closing bid prices over the 20-day period ending two days prior to the closing of such liquidation, dissolution or winding up of the Company; and

(3) If there is no active public market, the value shall be the fair market value thereof, as mutually determined by the Company and the holders of at least a majority of the voting power of all then outstanding shares of Preferred Stock.

(B) The method of valuation of securities subject to investment letter or other restrictions on free marketability (other than restrictions arising solely by virtue of a stockholder's status as an affiliate or former affiliate) shall be to make an appropriate discount, if any, from the market value determined as set forth above in Section 2(f)(ii)(A) (1), (2) or (3) to reflect the approximate fair market value thereof, as mutually determined by the Company and the holders of at least a majority of the voting power of all then outstanding shares of Preferred Stock.

(iii) In the event the requirements of this subsection 2(f) are not complied with, the Company shall forthwith either:

(A) cause such closing to be postponed until such time as the requirements of this Section 2 have been complied with; or

(B) cancel such transaction, in which event the rights, preferences and privileges of the holders of the Preferred Stock shall revert to and be the same as such rights, preferences and privileges existing immediately prior to the date of the first notice referred to in subsection 2(f)(iv) hereof.

(iv) The Company shall give each holder of record of Preferred Stock written notice of such impending transaction not later than fifteen (15) days prior to the stockholders' meeting called to approve such transaction, or fifteen (15) days prior to the closing of such transaction, whichever is earlier, and shall also notify such holders in writing of the final approval of such transaction. The first of such notices shall describe the material terms and conditions of the impending transaction and the provisions of this Section 2, and the Company shall thereafter give such holders prompt notice of any material changes. The transaction shall in no event take place sooner than fifteen (15) days after the Company has given the first notice provided for herein or sooner than five (5) days after the Company has given notice of any material changes provided for herein. In connection with any proposed Acquisition transaction, holders of Preferred Stock shall be entitled to conditionally convert their shares of Preferred Stock into such number of shares of Common Stock as provided in Section B.4 of this Article IV contingent upon the consummation of the Acquisition; it being the intent of this Section that holders of Preferred Stock be given the opportunity to maximize the return on their investment in the event that they convert their shares of Preferred Stock into Common Stock and not to require the holders of Preferred Stock to convert if, for any reason, the Acquisition provided for in the notice to the holders of Preferred Stock is not consummated.

(v) Shares of Preferred Stock shall not be entitled to be converted into shares of Common Stock in order to participate in any distribution, or series of distributions, as shares of Common Stock, without first foregoing participation in the distribution, or series of distributions, as shares of Preferred Stock.

(g) In the event of any liquidation, dissolution or winding up of the Company, including any Acquisition, if any portion of the consideration payable to the stockholders of the Company or to the Company is payable only upon satisfaction of contingencies (the “Additional Consideration”), then (i) the portion of such consideration that is not Additional Consideration (such portion, the “Initial Consideration”) shall be allocated among the holders of capital stock of the Corporation in accordance with subsections 2(a) through 2(e) above as if the Initial Consideration were the only consideration payable in connection with such liquidation, dissolution or winding up of the Company; and (ii) any Additional Consideration which becomes payable to the stockholders of the Company or to the Company upon satisfaction of such contingencies shall be allocated among the holders of capital stock of the corporation in accordance with subsections 2(a) through 2(e) after taking into account the previous payment of the Initial Consideration as part of the same transaction and recalculating whether any conversion of Series B-1 Preferred Stock to Common Stock, as provided in subsection 2(a) above, would have been economically rational based upon the aggregate amount of the Initial Consideration plus all Additional Consideration which actually gets distributed to the holders of Series B-1 Preferred Stock upon release from escrow or satisfaction of such contingencies. For the purposes of this subsection 2(g), consideration placed into escrow or retained as holdback to be available for satisfaction of indemnification or similar obligations in connection with such liquidation, dissolution or winding up of the Company, or payments to be made upon the achievement of certain milestones, are examples of and shall be deemed to be Additional Consideration.

3. Redemption. The Preferred Stock is not redeemable at the option of the holder thereof.

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

(a) Right to Convert. Each share of Preferred Stock shall be convertible at the option of the holder thereof, at any time after the date of issuance of such share, at the office of the Company or any transfer agent for such stock, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing the Original Series B-2 Issue Price, Original Series B-1 Issue Price, Original Series A-1 Issue Price or Original Series A-2 Issue Price by the conversion price applicable to the Series B-2 Preferred Stock, Series B-1 Preferred Stock, Series A-1 Preferred Stock or Series A-2 Preferred Stock, as the case may be (in each case, the “Conversion Price”). The ratio obtained by dividing the original issue price of a series or class of stock by the conversion price then in effect for such series or class of stock is referred to herein as the “Conversion Ratio”. The initial Conversion Price per share for the shares of Series B-2 Preferred Stock shall be the Original Series B-2 Issue Price, the initial Conversion Price per share for the shares of Series B-1 Preferred Stock shall be the Original Series B-1 Issue Price, the initial Conversion Price per share for shares of Series A-1 Preferred Stock shall be the Original Series A-1 Issue Price, and the initial Conversion Price per

share for shares of Series A-2 Preferred Stock shall be the Original Series A-2 Issue Price; provided, however, that these Conversion Prices shall be subject to adjustment as set forth in subsection 4(d).

(b) Automatic Conversion. Each share of Preferred Stock shall automatically be converted into shares of Common Stock, at the Conversion Ratio then in effect for each such series of Preferred Stock, immediately upon the earlier of (i) except as provided below in subsection 4(c), the closing of the sale by the Company of Common Stock in a firm commitment underwritten public offering registered under the Securities Act of 1933, as amended (the “Securities Act”), other than a registration relating solely to a transaction under Rule 145 under the Securities Act (or any successor thereto) or to an employee benefit plan of the Company, that results in gross offering proceeds (before deduction of underwriters’ discounts and commissions and expenses) to the Company and/or any selling stockholders of more than \$25,000,000 in the aggregate and a per share public offering price of at least \$2.1984 (subject to adjustment to reflect subsequent stock dividends, stock splits, stock combinations or other recapitalizations) (a “Qualified Public Offering”) or (ii) the date specified by written consent or agreement of the holders of a majority of the then outstanding shares of Preferred Stock (voting together as a single class and not as separate series and on an as-converted basis).

(c) Mechanics of Conversion.

(i) Before any holder of a series of Preferred Stock shall be entitled to convert the same into shares of Common Stock, such holder shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Company or of any transfer agent for such series of Preferred Stock, and shall give written notice to the Company at its principal corporate office, of the election to convert the same and shall state therein the name or names in which the certificate or certificates for shares of Common Stock are to be issued; provided, however, that in the event of an automatic conversion pursuant to subsection 4(b), the outstanding shares of such series of Preferred Stock shall be converted automatically without any further action by the holder of such shares and whether or not the certificate representing such shares is surrendered to the Company or its transfer agent; provided, further, however, that the Company shall not be obligated to issue certificates evidencing the shares of Common Stock issuable upon such automatic conversion unless either the certificates evidencing such shares of Preferred Stock are delivered to the Company or its transfer agent as provided above, or the holder notifies the Company or its transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the Company to indemnify the Company from any loss incurred by it in connection with such certificates. The Company shall, as soon as practicable after the surrender by a holder of the certificate representing shares of the Preferred Stock in accordance with this subsection 4(c), issue and deliver at such office to such holder of such series of Preferred Stock, or to the nominee or nominees of such holder, a certificate or certificates, for the number of shares of Common Stock to which such holder shall be entitled as aforesaid. 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 such series of Preferred Stock to be converted, and the person or persons entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock as of such date.

(ii) If the conversion is in connection with an underwritten offering of securities registered pursuant to the Securities Act, the conversion may, at the option of any holder tendering shares of such series of Preferred Stock for conversion, be conditioned upon the closing with the underwriters of the sale of securities pursuant to such offering, in which event the person(s) entitled to receive the Common Stock issuable upon such conversion of such series of Preferred Stock shall not be deemed to have converted such shares of such series of Preferred Stock until immediately prior to the closing of such sale of securities.

(iii) If the conversion occurs through the vote of the holders of Preferred Stock pursuant to subsection 4(b), such conversion shall be deemed to have been made at the close of business on the day written notice of such election has been received by the Company, and the person or persons entitled to receive 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. Until certificates for such shares of Preferred Stock of the applicable classes that have been converted have been delivered to the Company for exchange for certificates representing shares of Common Stock, such certificates shall be deemed to represent the shares of Common Stock into which such shares of the applicable classes of Preferred Stock have been converted.

(d) Conversion Price Adjustments of Preferred Stock for Certain Dilutive Issuances, Splits and Combinations. The Conversion Price of the Series B-2 Preferred Stock, the Series B-1 Preferred Stock and the Series A-1 Preferred Stock shall be subject to adjustment from time to time as follows:

(i)

(A) If the Company shall issue, on or after the date upon which this Restated Certificate of Incorporation is accepted for filing by the Secretary of State of the State of Delaware (the “Filing Date”), any Additional Stock (as defined below) without consideration or for a consideration per share less than the Conversion Price for the Series B-2 Preferred Stock, the Series B-1 Preferred Stock or the Series A-1 Preferred Stock in effect immediately prior to the issuance of such Additional Stock (as defined below), the Conversion Price for the Series B-2 Preferred Stock, Series B-1 Preferred Stock or Series A-1 Preferred Stock, as applicable, in effect immediately prior to each such issuance shall forthwith (except as otherwise provided in this clause (i)) be adjusted to a price determined by multiplying such Conversion Price by a fraction, the numerator of which shall be the number of shares of Common Stock outstanding immediately prior to such issuance plus the number of shares of Common Stock that the aggregate consideration received by the Company for such issuance would purchase at such Conversion Price; and the denominator of which shall be the number of shares of Common Stock outstanding immediately prior to such issuance plus the number of shares of such Additional Stock. For the purpose of the foregoing calculation, the number of shares of Common Stock outstanding immediately prior to such issuance shall be calculated on a fully diluted basis, as if all shares of Preferred Stock and all other securities convertible into or exchangeable for Common Stock (“Convertible Securities”) had been fully converted into shares of Common Stock immediately prior to such issuance and any currently exercisable warrants, options or other rights for the purchase

of shares of stock or convertible securities had been fully exercised immediately prior to such issuance (and the resulting securities fully converted into shares of Common Stock, if so convertible), but not including in such calculation any additional shares of Common Stock issuable with respect to shares of Preferred Stock, Convertible Securities, or currently exercisable options, warrants or other rights for the purchase of shares of stock or Convertible Securities, solely as a result of the adjustment of such Conversion Price for the Series B-2 Preferred Stock, the Series B-1 Preferred Stock or the Series A-1 Preferred Stock (or other conversion ratios) resulting from the issuance of Additional Stock causing such adjustment.

(B) No adjustment of the Conversion Price for the Series B-2 Preferred Stock, the Series B-1 Preferred Stock or the Series A-1 Preferred Stock shall be made in an amount less than one hundredth of a cent per share, provided that any adjustments which are not required to be made by reason of this sentence shall be carried forward and shall be either taken into account in any subsequent adjustment made prior to three years from the date of the event giving rise to the adjustment being carried forward, or shall be made at the end of three years from the date of the event giving rise to the adjustment being carried forward. Except to the limited extent provided for in subsections 4(d)(i)(E)(3) and 4(d)(i)(E)(4) below, no adjustment of the Conversion Price for the Series B-2 Preferred Stock, the Series B-1 Preferred Stock or the Series A-1 Preferred Stock pursuant to this subsection 4(d)(i) shall have the effect of increasing the Conversion Price for the Series B-2 Preferred Stock, the Series B-1 Preferred Stock or the Series A-1 Preferred Stock above the Conversion Price for the Series B-2 Preferred Stock, the Series B-1 Preferred Stock or the Series A-1 Preferred Stock in effect immediately prior to such adjustment.

(C) In the case of the issuance of Common Stock for cash, the consideration shall be deemed to be the amount of cash paid therefor before deducting any reasonable discounts, commissions or other expenses allowed, paid or incurred by the Company for any underwriting or otherwise in connection with the issuance and sale thereof.

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

(E) In the case of the issuance (whether before, on or after the Filing Date) of options to purchase or rights to subscribe for Common Stock, Convertible Securities, or options to purchase or rights to subscribe for Convertible Securities, the following provisions shall apply for all purposes of this subsection 4(d)(i) and subsection 4(d)(ii):

(1) The aggregate maximum number of shares of Common Stock deliverable upon exercise (assuming the satisfaction of any conditions to exercisability, including without limitation, the passage of time, but without taking into account potential antidilution adjustments) of such options to purchase or rights to subscribe for Common

Stock shall be deemed to have been issued at the time such options or rights were issued and for a consideration equal to the consideration (determined in the manner provided in subsections 4(d)(i)(C) and 4(d)(i)(D)), if any, received by the Company upon the issuance of such options or rights plus the minimum exercise price provided in such options or rights (without taking into account potential antidilution adjustments) for the Common Stock covered thereby.

(2) The aggregate maximum number of shares of Common Stock deliverable upon conversion of or in exchange (assuming the satisfaction of any conditions to convertibility or exchangeability, including, without limitation, the passage of time, but without taking into account potential antidilution adjustments) for any such Convertible Securities or upon the exercise of options to purchase or rights to subscribe for such Convertible Securities and subsequent conversion or exchange thereof shall be deemed to have been issued at the time such securities were issued or such options or rights were issued and for a consideration equal to the consideration, if any, received by the Company for any such securities and related options or rights (excluding any cash received on account of accrued interest or accrued dividends), plus the minimum additional consideration, if any, to be received by the Company (without taking into account potential antidilution adjustments) upon the conversion or exchange of such securities or the exercise of any related options or rights (the consideration in each case to be determined in the manner provided in subsections 4(d)(i)(C) and 4(d)(i)(D)).

(3) In the event of any change in the number of shares of Common Stock deliverable or in the consideration payable to the Company upon exercise of such options or rights or upon conversion of or in exchange for such Convertible Securities, including, but not limited to, a change resulting from the antidilution provisions thereof, the Conversion Price for the Series B-2 Preferred Stock, the Series B-1 Preferred Stock or the Series A-1 Preferred Stock, to the extent in any way affected by or computed using such options, rights or securities, shall be recomputed to reflect such change, but no further adjustment shall be made for the actual issuance of Common Stock or any payment of such consideration upon the exercise of any such options or rights or the conversion or exchange of such securities; provided, however, that this subsection shall not have any effect on any conversion of such series of Preferred Stock that occurred prior to such change or increase.

(4) Upon the expiration of any such options or rights, the termination of any such rights to convert or exchange or the expiration of any options or rights related to such Convertible Securities, the Conversion Price for the Series B-2 Preferred Stock, the Series B-1 Preferred Stock or the Series A-1 Preferred Stock, to the extent in any way affected by or computed using such options, rights or securities or options or rights related to such securities, shall be recomputed to reflect the issuance of only the number of shares of Common Stock (and convertible or exchangeable securities that remain in effect) actually issued upon the exercise of such options or rights, upon the conversion or exchange of such securities or upon the exercise of the options or rights related to such securities; provided, however, that this subsection shall not have any effect on any conversion of such series of Preferred Stock that occurred prior to such change or increase.

(5) The number of shares of Common Stock deemed issued and the consideration deemed paid therefor pursuant to subsections 4(d)(i)(E)(1)

and 4(d)(i)(E)(2) shall be appropriately adjusted to reflect any change, termination or expiration of the type described in either subsection 4(d)(i)(E)(3) or 4(d)(i)(E)(4).

(ii) “Additional Stock” shall mean any shares of Common Stock issued (or deemed to have been issued pursuant to subsection 4(d)(i)(E)) by the Company after the Filing Date other than:

(A) Common Stock issued pursuant to a transaction described in subsection 4(d)(iii) hereof;

(B) shares of Common Stock issuable or issued to directors, officers, or employees of, or consultants, or other service providers to the Company directly or pursuant to a stock option, stock bonus, stock purchase or restricted stock plan or agreement or warrants approved by the Board of Directors of the Company;

(C) Common Stock issued or issuable upon conversion of the Preferred Stock and other currently outstanding convertible securities, including any Preferred Stock which is automatically converted into Common Stock upon the closing of a Qualified Public Offering;

(D) shares of Common Stock issued or issuable in connection with a bona fide business acquisition of or by the Company, whether by merger, consolidation, sale of assets, sale or exchange of stock or otherwise;

(E) shares of Common Stock issued or issuable in connection with the following transactions and upon approval by the Board of Directors, in each case, including a majority of the Preferred Directors, (1) a strategic licensing transaction; or (2) a corporate partnership or joint venture or similar strategic agreement or transaction; provided, in any issuance pursuant to this subsection 4(d)(ii)(E), such issuance is for other than primarily equity financing purposes;

(F) shares of Common Stock issued or issuable to banks, equipment lessors and other financial institutions or landlords in connection with the extension of credit to the Company (including loans, lines of credit, guarantees or other financing arrangements) or in connection with the lease of equipment, personal property or real property, provided such issuances are for other than primarily equity financing purposes and are approved by the Board of Directors of the Company;

(G) shares of Common Stock issued or issuable as a dividend or distribution on the Preferred Stock;

(H) shares of Common Stock issued or issuable upon approval of a majority of the outstanding shares of the Series B-2 Preferred Stock, the Series B-1 Preferred Stock and the Series A-1 Preferred Stock (voting together as a single class and not as a separate series on an as-converted basis); and

(I) shares of Common Stock issued or issuable (1) in a public offering before or in connection with which all outstanding shares of Preferred

Stock will be converted to Common Stock or (2) upon exercise of warrants or rights granted to underwriters in connection with such a public offering.

(iii) In the event the Company should at any time or from time to time after the Filing Date fix a record date for the effectuation of a split or subdivision of the outstanding shares of Common Stock or the determination of holders of Common Stock entitled to receive a dividend or other distribution payable in additional shares of Common Stock or other securities or rights convertible into, or entitling the holder thereof to receive directly or indirectly, additional shares of Common Stock (hereinafter referred to as "Common Stock Equivalents") without a corresponding subdivision, dividend or other distribution to holders of Preferred Stock and without payment of any consideration by such holder for the additional shares of Common Stock or the Common Stock Equivalents (including the additional shares of Common Stock issuable upon conversion or exercise thereof), then, as of such record date (or the date of such dividend distribution, split or subdivision if no record date is fixed), the Conversion Price of each series of Preferred Stock shall be appropriately decreased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be increased in proportion to such increase of the aggregate of shares of Common Stock outstanding and those issuable with respect to such Common Stock Equivalents with the number of shares issuable with respect to Common Stock Equivalents determined from time to time in the manner provided for deemed issuance, in subsection 4(d)(i)(E).

(iv) If the number of shares of Common Stock outstanding at any time after the Filing Date is decreased by a combination of the outstanding shares of Common Stock and without a corresponding combination of the outstanding shares of Preferred Stock, then, following the record date of such combination, the Conversion Price for each series of Preferred Stock shall be appropriately increased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be decreased in proportion to such decrease in outstanding shares.

(v) Notwithstanding anything herein to the contrary, the operation of, and any adjustment of the Conversion Prices pursuant to, the provisions of subsection 4(d)(i) may be waived with respect to the Series A-1 Preferred Stock, either prospectively or retroactively and either generally or in a particular instance by a writing executed by the holders of at least two-thirds (2/3) of the Series A-1 Preferred Stock then outstanding. Notwithstanding anything herein to the contrary, the operation of, and any adjustment of the Conversion Prices pursuant to, the provisions of subsection 4(d)(i) may be waived with respect to the Series B-1 Preferred Stock, either prospectively or retroactively and either generally or in a particular instance by a writing executed by the holders of a majority of the Series B-1 Preferred Stock then outstanding. Notwithstanding anything herein to the contrary, the operation of, and any adjustment of the Conversion Prices pursuant to, the provisions of subsection 4(d)(i) may be waived with respect to the Series B-2 Preferred Stock, either prospectively or retroactively and either generally or in a particular instance by a writing executed by the holders of a majority of the Series B-2 Preferred Stock then outstanding. Any waiver pursuant to this subsection 4(d)(v) shall bind all future holders of the shares of Preferred Stock for which rights have been waived. In the event that a waiver of adjustment of Conversion Price under this subsection 4(d)(v) results in different Conversion Prices for shares of a series of Preferred Stock, the Secretary of this company shall maintain a written ledger identifying the

Conversion Price for each share of such series of Preferred Stock. Such information shall be made available to any person upon request.

(e) Other Distributions. In the event the Company shall declare a distribution payable in securities of other persons, evidences of indebtedness issued by the Company or other persons, assets (excluding cash dividends) or options or rights not referred to in subsection 4(d)(iii), without a corresponding distribution to the Preferred Stock, then, in each such case for the purpose of this subsection 4(e), the holders of the Preferred Stock shall be entitled to a proportionate share of any such distribution as though they were the holders of the number of shares of Common Stock into which their shares of Preferred Stock are convertible as of the record date fixed for the determination of the holders of Common Stock entitled to receive such distribution.

(f) Recapitalizations and Reorganizations.

(i) If at any time or from time to time there shall be a recapitalization or reorganization of the Common Stock (other than a subdivision, combination or merger or sale of assets transaction provided for elsewhere in this subsection 4 or subsection 2) provision shall be made so that the holders of the Preferred Stock shall thereafter be entitled to receive, upon conversion thereof, the number of shares of stock or other securities or property of the Company or otherwise, to which a holder of Common Stock deliverable upon conversion would have been entitled on such recapitalization. In any such case, appropriate adjustment shall be made in the application of the provisions of this subsection 4 with respect to the rights of the holders of the Preferred Stock after the recapitalization or reorganization to the end that the provisions of this subsection 4 (including adjustment of the Conversion Price then in effect and the number of shares purchasable upon conversion of the Preferred Stock) shall be applicable after that event as nearly equivalent as may be practicable.

(ii) If any consolidation or merger of the Company with another company or entity shall be effected, then, as a condition of such consolidation or merger, lawful and adequate provision shall be made whereby the holders of the Preferred Stock shall thereafter have the right to receive, upon the basis and upon the terms and conditions specified herein, and in lieu of the shares of Common Stock immediately theretofore receivable upon the conversion of the Preferred Stock, such shares of stock, securities or assets as may be issued or payable in connection with such consolidation or merger with respect to or in exchange for a number of outstanding shares of Common Stock equal to the number of shares of Common Stock issuable upon conversion of the Preferred Stock immediately prior to such consolidation or merger. In any such case, appropriate provision shall be made with respect to the rights and interests of the holders of the Preferred Stock to the end that the provisions hereof (including, without limitation, provisions for adjustment of each applicable Conversion Price) shall thereafter be applicable, as nearly as may be practicable, in relation to any shares of stock, securities or assets thereafter deliverable upon the exercise of such conversion rights. Except as expressly set forth in this subsection (ii), nothing in this subsection 4(f)(ii) will be deemed to restrict the Company from entering into a consolidation or merger.

(g) [Reserved]

(h) No Fractional Shares and Certificate as to Adjustments.

(i) No fractional shares shall be issued upon the conversion of any share or shares of the Preferred Stock, and the number of shares of Common Stock to be issued shall be rounded down to the nearest whole share and the Company shall pay in cash the fair market value of any fractional shares as of the time when entitlement to receive such fractions is determined. Whether or not fractional shares are issuable upon such conversion shall be determined on the basis of the total number of shares of Preferred Stock the holder is at the time converting into Common Stock and the number of shares of Common Stock issuable upon such aggregate conversion.

(ii) Upon the occurrence of each adjustment or readjustment of the Conversion Price of Preferred Stock pursuant to this subsection 4, the Company, at its expense, shall promptly compute such adjustment or readjustment in accordance with the terms hereof and prepare and furnish to each holder of Preferred Stock a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Company shall, upon the written request at any time of any holder of Preferred Stock, furnish or cause to be furnished to such holder a like certificate setting forth (A) such adjustment and readjustment, (B) the consideration received or deemed to be received by the Company for any Additional Stock issued or sold or deemed to have been issued or sold, (C) the Conversion Price for such series of Preferred Stock at the time in effect, and (D) the number of shares of Common Stock and the amount, if any, of other property which at the time would be received upon the conversion of a share of Preferred Stock.

(i) Notices of Record Date. In the event of any taking by the Company of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend (other than a cash dividend) or other distribution, any right to subscribe for, purchase or otherwise acquire any shares of stock of any class or any other securities or property, to receive any other right, or to exchange their shares of Common Stock, Preferred Stock (or other securities) for securities or other property deliverable upon a reorganization, reclassification, consolidation, merger, dissolution, liquidation or winding up, the Company shall mail to each holder of Preferred Stock, at least 5 days prior to the date specified therein, a notice specifying the date on which any such record is to be taken for the purpose of such dividend, distribution, right or other exchange, and the amount and character of such dividend, distribution, right or other exchange.

(j) Reservation of Stock Issuable Upon Conversion. The Company shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of all outstanding shares of Preferred Stock such number of shares of Common Stock as shall from time to time be sufficient to effect such conversion; and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect such conversion, in addition to such other remedies as shall be available to the holder of such Preferred Stock, the Company will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes, including, without limitation, engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to this certificate of incorporation.

(k) Notices. Any notice required by the provisions of this subsection 4 to be given to the holders of shares of Preferred Stock shall be deemed given if deposited in the United States mail, three (3) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, and addressed to each holder of record at his address appearing on the books of the Company.

(l) Pay-to-Play; Special Mandatory Conversion.

(i) Trigger Event. In the event that any holder of shares of Preferred Stock does not participate in the Qualified Financing (as defined below) by purchasing in the aggregate, in the Qualified Financing and within the time period specified by the Company in the Stock Purchase Agreement, such holder's Pro Rata Amount (as defined below), then each share of Series A-1 Preferred Stock, Series A-2 Preferred Stock and Series B-1 Preferred Stock held by such holder shall automatically, and without any further action on the part of such holder, be converted into shares of Common Stock at the applicable Conversion Price then in effect for such share of Preferred Stock, effective on the date specified by the Company in the Stock Purchase Agreement. For purposes of determining the number of shares of Series A-1 Preferred Stock, Series A-2 Preferred Stock and Series B-1 Preferred Stock owned by a holder, and for determining the number of Offered Securities (as defined below) a holder of shares of Preferred Stock has purchased in the Qualified Financing, all shares of Series A-1 Preferred Stock, Series A-2 Preferred Stock and Series B-1 Preferred Stock held by Affiliates (as defined below) of such holder shall be aggregated with such holder's shares and all Offered Securities purchased by Affiliates of such holder shall be aggregated with the Offered Securities purchased by such holder (provided that no shares or securities shall be attributed to more than one entity or person within any such group of affiliated entities or persons). Such conversion is referred to as a "Special Mandatory Conversion."

(ii) Procedural Requirements. Upon a Special Mandatory Conversion, each holder of shares of Series A-1 Preferred Stock, Series A-2 Preferred Stock and Series B-1 Preferred Stock converted pursuant to subsection 4(l)(i) shall be sent written notice of such Special Mandatory Conversion and the place designated for mandatory conversion of all such shares of Series A-1 Preferred Stock, Series A-2 Preferred Stock and Series B-1 Preferred Stock pursuant to this subsection 4(l). Upon receipt of such notice, each holder of such shares of Series A-1 Preferred Stock, Series A-2 Preferred Stock and Series B-1 Preferred Stock in certificated form shall surrender his, her or its certificate or certificates for all such shares to the Company or its transfer agent at the place designated in such notice; provided, however, that in the event of a Special Mandatory Conversion pursuant to subsection 4(l), the outstanding shares of Series A-1 Preferred Stock, Series A-2 Preferred Stock and Series B-1 Preferred Stock shall be converted automatically without any further action by the holder of such shares and whether or not the certificate representing such shares is surrendered to the Company or its transfer agent; provided, further, however, that the Company shall not be obligated to issue certificates evidencing the shares of Common Stock issuable upon such Special Mandatory Conversion unless either the certificates evidencing such shares of Series A-1 Preferred Stock, Series A-2 Preferred Stock and Series B-1 Preferred Stock are delivered to the Company or its transfer agent as provided above, or the holder notifies the Company or its transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the Company to indemnify the Company from any loss incurred by it in connection with such certificates. If so

required by the Company, any certificates surrendered for conversion shall be endorsed or accompanied by written instrument or instruments of transfer, in form satisfactory to the Company, duly executed by the registered holder or by his, her or its attorney duly authorized in writing. All rights with respect to the Series A-1 Preferred Stock, Series A-2 Preferred Stock and Series B-1 Preferred Stock converted pursuant to subsection 4(l)(i), including the rights, if any, to receive notices and vote (other than as a holder of Common Stock), will terminate at the time of the Special Mandatory Conversion (notwithstanding the failure of the holder or holders thereof to surrender any certificates for such shares at or prior to such time), except only the rights of the holders thereof, upon surrender of any certificate or certificates of such holders therefor (or lost certificate affidavit and agreement), to receive the items provided for in the next sentence of this subsection 4(l)(ii). As soon as practicable after the Special Mandatory Conversion and, if applicable, the surrender of any certificate or certificates (or lost certificate affidavit and agreement) for Series A-1 Preferred Stock, Series A-2 Preferred Stock and Series B-1 Preferred Stock so converted, the Company shall (a) issue and deliver to such holder, or to his, her or its nominees, a certificate or certificates for the number of full shares of Common Stock issuable on such conversion in accordance with the provisions hereof and (b) pay cash as provided in subsection 4(h)(i) in lieu of any fraction of a share of Common Stock otherwise issuable upon such conversion and the payment of any declared but unpaid dividends on the shares of Series A-1 Preferred Stock, Series A-2 Preferred Stock and Series B-1 Preferred Stock converted. Such converted Series A-1 Preferred Stock, Series A-2 Preferred Stock and Series B-1 Preferred Stock shall be retired and cancelled and may not be reissued as shares of such series, and the Company may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of Series A-1 Preferred Stock, Series A-2 Preferred Stock and Series B-1 Preferred Stock accordingly.

(iii) Definitions. For purposes of this subsection 4(l), the following definitions shall apply:

(A) "Affiliate" shall mean, with respect to any holder of shares of Preferred Stock, any person, entity or firm which, directly or indirectly, controls, is controlled by or is under common control with such holder, including, without limitation, any entity of which the holder is a partner or member, any partner, officer, director, member or employee of such holder and any venture capital fund now or hereafter existing of which the holder is a partner or member which is controlled by or under common control with one or more general partners of such holder or shares the same management company with such holder.

(B) "Offered Securities" shall mean the 17,257,233 shares of Series B-2 Preferred Stock set aside by the Board of Directors of the Company for purchase by holders of outstanding shares of Preferred Stock in connection with the Qualified Financing, and offered to such holders.

(C) "Pro Rata Amount" shall mean, with respect to any holder of Preferred Stock, a number of Offered Securities calculated (as of immediately prior to the Qualified Financing) by multiplying 17,026,109 shares of Series B-2 Preferred Stock by a fraction, the numerator of which is equal to the number of shares of Series A-1 Preferred Stock, Series A-2 Preferred Stock and Series B-1 Preferred Stock

owned by such holder, and the denominator of which is equal to the aggregate number of outstanding shares of Series A-1 Preferred Stock, Series A-2 Preferred Stock and Series B-1 Preferred Stock.

(D) **Qualified Financing** shall mean the first transaction involving the issuance or sale of Offered Securities by the Company after the Filing Date that results in at least \$5,000,000 in gross proceeds to the Company (including the amount of any indebtedness of the Company cancelled in exchange for or converted into shares of Series B-2 Preferred Stock).

(E) **Stock Purchase Agreement** shall mean the Series B-2 Preferred Stock Purchase Agreement pursuant to which the Company issues and sells the Offered Securities in the Qualified Financing.

5. **Voting Rights.**

(a) **Voting Other than for Directors.** Except as required by law and in subsection 5(b) below, the holder of each share of Preferred Stock shall have the right to one vote for each share of Common Stock into which such Preferred Stock could be converted on the record date for the vote or consent of stockholders, and, except as otherwise required by law, with respect to such vote, such holder shall have full voting rights and powers equal to the voting rights and powers of the holders of Common Stock. The holder of each share of Preferred Stock shall be entitled, notwithstanding any provision hereof, to notice of any stockholders' meeting in accordance with the bylaws of the Company, and shall be entitled to vote with holders of Common Stock upon the election of directors except as set forth in subsection 5(b) below and upon any other matter submitted to a vote of stockholders of the Company, except as to those matters required by law or this certificate of incorporation to be submitted to a class vote. Fractional votes shall not, however, be permitted and any fractional voting rights available on an as-converted basis (after aggregating all shares into which shares of Preferred Stock held by each holder could be converted) shall be rounded down to the nearest whole number.

(b) **Voting for Directors.**

(i) With respect to the election of members of the Board of Directors, (i) so long as at least a total of 1,000,000 shares of Series B-2 Preferred Stock, Series B-1 Preferred Stock and Series A-1 Preferred Stock are outstanding (as adjusted for stock splits, stock dividends, stock combinations and the like), four (4) members of the Board of Directors shall be elected by the holders of a majority of the Series B-2 Preferred Stock, the Series B-1 Preferred Stock and the Series A-1 Preferred Stock (voting together as a single class and on an as-converted basis) (the "Preferred Directors"), and (ii) any remaining members of the Board of Directors shall be elected by the holders of a majority of the Common Stock and the Preferred Stock, voting together as a single class and on an as-converted basis (the "Joint Directors").

(ii) Notwithstanding the provisions of Section 223(a)(1) and 223(a)(2) of the General Corporation Law, any vacancy, including newly created directorships resulting from any increase in the authorized number of directors or amendment of this Restated Certificate of Incorporation, and vacancies created by removal or resignation of a director, may

be filled by a majority of the directors then in office, though less than a quorum, or by a sole remaining director, and the directors so chosen shall hold office until the next annual election and until their successors are duly elected and shall qualify, unless sooner displaced; provided, however, that where such vacancy occurs among the directors elected by the holders of a class or series of stock, the holders of shares of such class or series may override the Board's action to fill such vacancy by (i) voting for their own designee to fill such vacancy at a meeting of the corporation's stockholders or (ii) written consent, if the consenting stockholders hold a sufficient number of shares to elect their designee at a meeting of the stockholders. Any director may be removed during his or her term of office, either with or without cause, by, and only by, the affirmative vote of the holders of the shares of the class or series of stock entitled to elect such director or directors, given either at a special meeting of such stockholders duly called for that purpose or pursuant to a written consent of stockholders, and any vacancy thereby created may be filled by the holders of that class or series of stock represented at the meeting or pursuant to written consent.

6. Protective Provisions.

(a) So long as at least 1,000,000 shares of Preferred Stock (subject to adjustment for any stock split, reverse stock split or other similar event affecting the Preferred Stock after the filing date hereof) remain outstanding, in addition to any other vote or consent required herein or by law, the Company shall not without first obtaining the approval (by vote or written consent, as provided by law) of the holders of a majority of the then outstanding shares of Preferred Stock, voting together as a single class and not as separate series and on an as-converted basis, take any of the following actions (whether by merger, recapitalization or otherwise):

(i) increase or decrease (other than by conversion) the total number of authorized shares of Preferred Stock;

(ii) create any equity security, including any other security convertible into or exercisable for any equity security, having a preference over the Series B-2 Preferred Stock, the Series B-1 Preferred Stock or the Series A-1 Preferred Stock with respect to voting rights, dividend rights or liquidation preference rights;

(iii) liquidate, dissolve or wind up the Company or consummate an Acquisition;

(iv) redeem, purchase or otherwise acquire (or pay into or set aside for a sinking fund for such purpose), directly or indirectly, any share or shares of Preferred Stock or Common Stock; provided, however, that this restriction shall not apply to the repurchase of shares of Common Stock from employees, officers, directors, consultants or other persons performing services for the Company or any subsidiary pursuant to agreements under which the Company has the option to repurchase such shares at cost or at cost upon the occurrence of certain events, such as the termination of employment or the repurchase of any shares pursuant to the exercise by the Company of contractual rights of first refusal with respect to such shares;

(v) declare or pay any dividend on or make any other distribution, directly or indirectly, on account of any shares of Preferred Stock or Common Stock except for such dividends and distributions as may be approved by the Board of Directors, including a majority of the Preferred Directors, which are in accordance with Article IV, Section B.1 hereof;

(vi) change the authorized number of directors of the Company; or

(vii) amend any provision of this certificate of incorporation or the Company's bylaws if such action would alter or change adversely the preferences, rights, privileges or powers of, or the restrictions provided for the benefit of, the Preferred Stock (provided, however, that in the event such proposed action adversely affects the rights, preferences or privileges of any series of Preferred Stock in a manner differently than any other series of Preferred Stock, such action shall, in addition to any other actions required hereunder, also require the affirmative vote or written consent of the holders of a majority of the shares of such series so affected).

7. Status of Converted or Reacquired Shares. Any share or shares of Preferred Stock acquired by the Company by reason of redemption, purchase, conversion or otherwise shall be retired and have the status of authorized but unissued shares of Preferred Stock, without designation as to series until such shares are once more designated as part of a particular series by the Board of Directors.

C. Common Stock.

1. Relative Rights of Preferred Stock and Common Stock. All preferences, voting powers, relative, participating, optional or other special rights and privileges, and qualifications, limitations, or restrictions of the Common Stock are expressly made subject and subordinate to those that may be fixed with respect to any shares of the Preferred Stock.

2. Voting Rights. Except as otherwise required by law or this certificate of incorporation, each holder of Common Stock shall have one vote in respect of each share of stock held by such holder of record on the books of the Company for the election of directors and on all matters submitted to a vote of stockholders of the Company. The number of authorized shares of Common Stock may 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 this corporation entitled to vote, irrespective of the provisions of Section 242(b)(2) of the General Corporation Law.

3. Dividends. Subject to the preferential rights of the Preferred Stock, the holders of shares of Common Stock shall be entitled to receive, when and if declared by the Board of Directors, out of the assets of the Company which are by law available therefor, dividends payable either in cash, in property or in shares of capital stock.

4. Dissolution, Liquidation or Winding Up. In the event of any dissolution, liquidation or winding up of the affairs of the Company, after distribution in full of the preferential amounts, if any, to be distributed to the holders of shares of the Preferred Stock,

holders of Common Stock shall be entitled to participate in any distribution of the assets of the Company in accordance with Section B.2 of this Article IV.

ARTICLE V

In furtherance and not in limitation of the powers conferred by the laws of the State of Delaware:

A. The Board of Directors is expressly authorized to adopt, amend or repeal the bylaws of the Company, provided, however, that the bylaws may only be amended in accordance with the provisions thereof.

B. Elections of directors need not be by written ballot unless the bylaws of the Company shall so provide.

C. The books of the Company may be kept at such place within or without the State of Delaware as the bylaws of the Company may provide or as may be designated from time to time by the Board of Directors.

ARTICLE VI

A. Limitation on Liability. A director of the Company shall not be personally liable to the Company or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (1) for any breach of the director's duty of loyalty to the Company or its stockholders; (2) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; (3) under Section 174 of the General Corporation Law; or (4) for any transaction from which the director derived an improper personal benefit. If the General Corporation Law hereafter is amended to further eliminate or limit the liability of directors, then the liability of a director of the Company, in addition to the limitation on personal liability provided herein, shall be limited to the fullest extent permitted by the amended General Corporation Law. Any repeal or modification of the foregoing provisions of this Article VI, or the adoption of any provision in an amended or restated certificate of incorporation inconsistent with this Article VI, shall be prospective only, and shall not adversely affect any right or protection of any director of the Company existing at the time of such repeal, modification or adoption.

B. Corporate Opportunities. In the event that a director of the Company who is also a partner or employee of an entity that is a holder of Preferred Stock or any of its affiliates and that is in the business of investing and reinvesting in other entities (each, a "Fund"), acquires knowledge of a potential transaction or matter in such person's capacity as a partner or employee of the Fund and that may be a corporate opportunity for both the Company and such Fund, such director shall to the fullest extent permitted by law have fully satisfied and fulfilled such director's fiduciary duty to the Company and its stockholders with respect to such corporate opportunity, and the Company to the fullest extent permitted by law waives any claim that such business opportunity constituted a corporate opportunity that should have been presented to the Company or any of its affiliates, if such director acts in good faith in a manner consistent with the following policy: a corporate opportunity offered to any person who is a director of the Company, and who is also a partner or employee of a Fund shall belong to such Fund, unless

such opportunity was expressly offered to such person solely in his or her capacity as a director of the Company.

C. For purposes of Section 500 of the California Corporations Code (to the extent applicable), in connection with any repurchase of shares of Common Stock permitted under this certificate of incorporation from employees, officers, directors or consultants of the Company in connection with a termination of employment or services pursuant to agreements or arrangements approved by the Board of Directors (in addition to any other consent required under this certificate of incorporation), such repurchase may be made without regard to any "preferential dividends arrears amount" or "preferential rights amount" (as those terms are defined in Section 500 of the California Corporations Code). Accordingly, for purposes of making any calculation under California Corporations Code Section 500 in connection with such repurchase, the amount of any "preferential dividends arrears amount" or "preferential rights amount" (as those terms are defined therein) shall be deemed to be zero.

ARTICLE VII

Except as otherwise provided in this certificate of incorporation, the Company reserves the right to amend or repeal any provision, rescind or amend in any respect any provision contained in this certificate of incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon a stockholder herein are granted subject to this reservation.

* * *

FIFTH: This Amended and Restated Certificate of Incorporation was duly adopted by the Board of Directors.

SIXTH: This Amended and Restated Certificate of Incorporation was duly adopted by the stockholders in accordance with the provisions of Sections 242 and 245 of the General Corporation Law. Written consent of the stockholders has been given with respect to this Amended and Restated Certificate of Incorporation in accordance with Section 228 of the General Corporation Law, and written notice has been given as provided in Section 228.

[Remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, 4INFO, INC. has caused this certificate to be signed by its President on September 29, 2017.

/s/ Tim Jenkins

Tim Jenkins, President