

Delaware

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The First State

*I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF
DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT
COPY OF THE RESTATED CERTIFICATE OF "STRIPE, INC.", FILED IN
THIS OFFICE ON THE FIFTEENTH DAY OF MARCH, A.D. 2023, AT 9:21
O'CLOCK A.M.*



Jeffrey W. Bullock, Secretary of State



4675506 8100
SR# 20230996689

You may verify this certificate online at corp.delaware.gov/authver.shtml

Authentication: 202918980
Date: 03-15-23

State of Delaware
Secretary of State
Division of Corporations
Delivered 09:21 AM 03/15/2023
FILED 09:21 AM 03/15/2023
SR 20230996689 - File Number 4675506

AMENDED AND RESTATED

**CERTIFICATE OF INCORPORATION OF
STRIPE, INC.**

Stripe, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), certifies that:

A. The name of the Corporation is Stripe, Inc. The Corporation's original Certificate of Incorporation was filed with the Secretary of State of the State of Delaware on April 13, 2009 under the name of SlashDevSlashFinance Inc., amended on October 26, 2010 to change the name of this Corporation to HGSC, Inc., and amended on January 27, 2011 to change the name of this Corporation to Stripe, Inc.

B. This Amended and Restated Certificate of Incorporation was duly adopted in accordance with Sections 242 and 245 of the General Corporation Law of the State of Delaware, and has been duly approved by the written consent of the stockholders of the Corporation in accordance with Section 228 of the General Corporation Law of the State of Delaware.

C. The text of the Certificate of Incorporation is amended and restated to read as set forth in EXHIBIT A attached hereto.

IN WITNESS WHEREOF, Stripe, Inc. has caused this Amended and Restated Certificate of Incorporation to be signed by Patrick Collison, a duly authorized officer of the Corporation, on March 15, 2023.

/s/ Patrick Collison

Patrick Collison
Chief Executive Officer

EXHIBIT A

ARTICLE I

The name of the Corporation is Stripe, Inc.

ARTICLE II

The purpose of this corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

ARTICLE III

The address of the Corporation's registered office in the State of Delaware is Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware, County of New Castle, 19801. The name of the registered agent at that address for service of process in the State of Delaware is The Corporation Trust Company.

ARTICLE IV

1. Classes of Stock. The Corporation is authorized to issue four classes of stock to be designated, respectively, "**Class A Common Stock**," "**Class B Common Stock**," "**FF Preferred Stock**" and "**Preferred Stock**." The total number of shares of stock that the Corporation shall have authority to issue is 8,465,843,394 shares, consisting of 3,569,800,000 shares of Class A Common Stock, \$0.000000125 par value per share, 3,569,800,000 shares of Class B Common Stock, \$0.000000125 par value per share, 57,249,556 shares of FF Preferred Stock, \$0.000000125 par value per share, and 1,268,993,838 shares of Preferred Stock, \$0.000000125 par value per share. The first Series of Preferred Stock shall be designated "**Series AA Preferred Stock**" and shall consist of 3,466,520 shares. The second Series of Preferred Stock shall be designated "**Series AA-1 Preferred Stock**" and shall consist of 61,702,440 shares. The third Series of Preferred Stock shall be designated "**Series A Preferred Stock**" and shall consist of 269,900,416 shares. The fourth Series of Preferred Stock shall be designated "**Series B Preferred Stock**" and shall consist of 141,161,856 shares. The fifth Series of Preferred Stock shall be designated "**Series BB Preferred Stock**" and shall consist of 10,666,672 shares. The sixth Series of Preferred Stock shall be designated "**Series BB-1 Preferred Stock**" and shall consist of 10,666,672 shares. The seventh Series of Preferred Stock shall be designated "**Series B-1 Preferred Stock**" and shall consist of 5,755,400 shares. The eighth Series of Preferred Stock shall be designated "**Series C Preferred Stock**" and shall consist of 117,374,344 shares. The ninth Series of Preferred Stock shall be designated "**Series C-1 Preferred Stock**" and shall consist of 32,855,576 shares. The tenth Series of Preferred Stock shall be designated "**Series C-2 Preferred Stock**" and shall consist of 30,757,748 shares. The eleventh Series of Preferred Stock shall be designated "**Series C-3 Preferred Stock**" and shall consist of 4,386,228 shares. The twelfth Series of Preferred Stock shall be designated "**Series C-4 Preferred Stock**" and shall consist of 5,574,914 shares. The thirteenth Series of Preferred Stock shall be designated "**Series D Preferred Stock**" and shall consist of 39,724,140 shares. The fourteenth Series of Preferred Stock shall be designated "**Series E Preferred Stock**" and shall consist of 25,899,808 shares. The fifteenth Series of Preferred Stock shall be designated "**Series F Preferred Stock**" and shall consist of 9,802,040 shares. The sixteenth Series of Preferred Stock shall be designated "**Series G**

Preferred Stock" and shall consist of 46,900,000 shares. The seventeenth Series of Preferred Stock shall be designated "**Series G-1 Preferred Stock**" and shall consist of 11,151,494 shares. The eighteenth Series of Preferred Stock shall be designated "**Series H Preferred Stock**" and shall consist of 21,806,854 shares. The nineteenth Series of Preferred Stock shall be designated "**Series H-1 Preferred Stock**" and shall consist of 5,632,400 shares. The twentieth Series of Preferred Stock shall be designated "**Series I Preferred Stock**" and shall consist of 228,841,392 shares. The twenty-first Series of Preferred Stock shall be designated "**Series I-1 Preferred Stock**" and shall consist of 184,966,924 shares.

ARTICLE V

The terms and provisions of the Class A Common Stock, Class B Common Stock, FF Preferred Stock and Preferred Stock are as follows:

1. **Definitions.** For purposes of this ARTICLE V, the following definitions shall apply:

(a) **"Class B Permitted Entity"** shall mean, with respect to any Class B Stockholder, any Clause (i) Permitted Trust, Clause (ii) Permitted Trust, Clause (iii) Permitted Trust, a Permitted IRA, a Permitted Corporation, a Permitted Partnership, a Permitted LLC or a Permitted Owner, each as defined herein.

(b) **"Class B Stockholder"** shall mean (i) any registered holder of a share of Class B Common Stock immediately after the IPO Date, (ii) the initial registered holder of any share of Class B Common Stock that is originally issued by the Corporation after the IPO Date pursuant to the exercise or conversion of options or warrants or settlement of restricted stock units that, in each case, are outstanding as of the IPO Date or are issued in connection with, or upon completion of, a Qualified IPO; and (iii) any Class B Permitted Entity.

(c) **"Common Stock"** shall mean the Class A Common Stock and the Class B Common Stock.

(d) **"Conversion Price"** shall initially mean an amount equal to \$0.0000125 per share for the FF Preferred Stock (subject to adjustment from time to time for Recapitalizations), the Series AA Original Issue Price for the Series AA Preferred Stock as of the date of filing of this Certificate of Incorporation (subject to adjustment from time to time for Recapitalizations), the Series AA-1 Original Issue Price for the Series AA-1 Preferred Stock as of the date of filing of this Certificate of Incorporation (subject to adjustment from time to time for Recapitalizations), the Series A Original Issue Price for the Series A Preferred Stock as of the date of filing of this Certificate of Incorporation (subject to adjustment from time to time for Recapitalizations and as otherwise set forth elsewhere herein), the Series B Original Issue Price for the Series B Preferred Stock as of the date of filing of this Certificate of Incorporation (subject to adjustment from time to time for Recapitalizations and as otherwise set forth elsewhere herein), the Series BB Original Issue Price for the Series BB Preferred Stock as of the date of filing of this Certificate of Incorporation (subject to adjustment from time to time for Recapitalizations and as otherwise set forth elsewhere herein), the Series BB-1 Original Issue Price for the Series BB-1 Preferred Stock as of the date of filing of this Certificate of Incorporation (subject to adjustment from time to time

for Recapitalizations and as otherwise set forth elsewhere herein), the Series C Original Issue Price for the Series C Preferred Stock as of the date of filing of this Certificate of Incorporation (subject to adjustment from time to time for Recapitalizations and as otherwise set forth elsewhere herein), the Series C-1 Original Issue Price for the Series C-1 Preferred Stock as of the date of filing of this Certificate of Incorporation (subject to adjustment from time to time for Recapitalizations and as otherwise set forth elsewhere herein), the Series C-2 Original Issue Price for the Series C-2 Preferred Stock as of the date of filing of this Certificate of Incorporation (subject to adjustment from time to time for Recapitalizations and as otherwise set forth elsewhere herein), the Series C-3 Original Issue Price for the Series C-3 Preferred Stock as of the date of filing of this Certificate of Incorporation (subject to adjustment from time to time for Recapitalizations and as otherwise set forth elsewhere herein), the Series D Original Issue Price for the Series D Preferred Stock as of the date of filing of this Certificate of Incorporation (subject to adjustment from time to time for Recapitalizations and as otherwise set forth elsewhere herein), the Series E Original Issue Price for the Series E Preferred Stock as of the date of filing of this Certificate of Incorporation (subject to adjustment from time to time for Recapitalizations and as otherwise set forth elsewhere herein), the Series F Original Issue Price for the Series F Preferred Stock as of the date of filing of this Certificate of Incorporation (subject to adjustment from time to time for Recapitalizations and as otherwise set forth elsewhere herein), the Series G Original Issue Price for the Series G Preferred Stock as of the date of filing of this Certificate of Incorporation (subject to adjustment from time to time for Recapitalizations and as otherwise set forth elsewhere herein), the Series G-1 Original Issue Price for the Series G-1 Preferred Stock as of the date of filing of this Certificate of Incorporation (subject to adjustment from time to time for Recapitalizations and as otherwise set forth elsewhere herein), the Series H Original Issue Price for the Series H Preferred Stock as of the date of filing of this Certificate of Incorporation (subject to adjustment from time to time for Recapitalizations and as otherwise set forth elsewhere herein), the Series H-1 Original Issue Price for the Series H-1 Preferred Stock as of the date of filing of this Certificate of Incorporation (subject to adjustment from time to time for Recapitalizations and as otherwise set forth elsewhere herein), the Series I Original Issue Price for the Series I Preferred Stock as of the date of filing of this Certificate of Incorporation (subject to adjustment from time to time for Recapitalizations and as otherwise set forth elsewhere herein) and the Series I-1 Original Issue Price for the Series I-1 Preferred Stock as of the date of filing of this Certificate of Incorporation (subject to adjustment from time to time for Recapitalizations and as otherwise set forth elsewhere herein). The Conversion Price of the Series B-1 Preferred Stock shall be equal to the Conversion Price of the Series B Preferred Stock (subject to adjustment from time to time for Recapitalizations and as otherwise set forth elsewhere herein). The Conversion Price of the Series C-4 Preferred Stock shall be equal to the Conversion Price of the Series C-2 Preferred Stock (subject to adjustment from time to time for Recapitalizations and as otherwise set forth elsewhere herein).

(e) **“Corporation”** shall mean Stripe, Inc.

(f) **“Distribution”** shall mean (x) the transfer of cash or other property without consideration whether by way of dividend or otherwise, other than dividends on Common Stock payable in Common Stock, or (y) the purchase or redemption of shares of the Corporation by the Corporation for cash or property other than: (i) repurchases of Common Stock issued to or held by employees, officers, directors or consultants of the Corporation or its subsidiaries upon termination of their employment or services pursuant to agreements providing for the right of said repurchase; (ii) repurchases of Common Stock issued to or held by current and former employees, officers,

directors, consultants or other service providers of the Corporation or its subsidiaries pursuant to rights of first refusal contained in agreements providing for such right; (iii) any Excluded Redemption; (iv) repurchase of capital stock of the Corporation in connection with the settlement of disputes with any stockholder but only if approved by the Corporation's Board of Directors; and (v) any other repurchase or redemption of capital stock of the Corporation approved by the holders of the Common, FF Preferred and Preferred Stock of the Corporation voting as separate classes, with each of the Series B-1 Preferred Stock and the Series C-4 Preferred Stock not subject to the Regulatory Voting Restriction (as defined below) for purposes of this specific vote.

(g) “**Excluded Redemption**” means any repurchase (pursuant to a Corporation sponsored tender offer or otherwise) of (x) any restricted stock units, warrants or options (“**Equity Awards**”) granted to current and former employees, officers and directors, consultants or other service providers of the Corporation or its subsidiaries or (y) any Common Stock issued to current and former employees, officers and directors, consultants or other service providers of the Corporation or its subsidiaries pursuant to the exercise or settlement of any Equity Award, in each case, for the purpose of providing such employees, officers and directors, consultants or other service providers with liquidity prior to the IPO Date. For the avoidance of doubt, with respect to any Equity Awards issued to or held by current or former employees, officers, directors, consultants or other service providers of the Corporation or its subsidiaries, the “net exercise” or “net shares settlement” of such Equity Awards to cover the exercise price (to the extent applicable) and/or any tax withholding obligations due upon the exercise or settlement of such Equity Awards shall be considered an Excluded Redemption.

(h) “**IPO Date**” means the date of the first closing or the initial trade, as applicable, of the first Qualified IPO (as defined below).

(i) **“Liquidation Preference”** shall initially mean an amount equal to the Series AA Original Issue Price for the Series AA Preferred Stock as of the date of filing of this Certificate of Incorporation (subject to adjustment from time to time for Recapitalizations as set forth elsewhere herein), the Series AA-1 Original Issue Price for the Series AA-1 Preferred Stock (as of the date of filing of this Certificate of Incorporation subject to adjustment from time to time for Recapitalizations as set forth elsewhere herein), the Series A Original Issue Price for the Series A Preferred Stock as of the date of filing of this Certificate of Incorporation (subject to adjustment from time to time for Recapitalizations as set forth elsewhere herein), the Series B Original Issue Price for the Series B Preferred Stock as of the date of filing of this Certificate of Incorporation (subject to adjustment from time to time for Recapitalizations as set forth elsewhere herein), the Series BB Original Issue Price for the Series BB Preferred Stock as of the date of filing of this Certificate of Incorporation (subject to adjustment from time to time for Recapitalizations as set forth elsewhere herein), the Series BB-1 Original Issue Price for the Series BB-1 Preferred Stock as of the date of filing of this Certificate of Incorporation (subject to adjustment from time to time for Recapitalizations as set forth elsewhere herein), the Series B-1 Original Issue Price for the Series B-1 Preferred Stock as of the date of filing of this Certificate of Incorporation (subject to adjustment from time to time for Recapitalizations as set forth elsewhere herein), the Series C Original Issue Price for the Series C Preferred Stock as of the date of filing of this Certificate of Incorporation (subject to adjustment from time to time for Recapitalizations as set forth elsewhere herein), the Series C-1 Original Issue Price for the Series C-1 Preferred Stock as of the date of filing of this Certificate of Incorporation (subject to adjustment from time to time for Recapitalizations as set forth elsewhere herein).

Recapitalizations as set forth elsewhere herein), the Series C-2 Original Issue Price for the Series C-2 Preferred Stock as of the date of filing of this Certificate of Incorporation (subject to adjustment from time to time for Recapitalizations as set forth elsewhere herein), the Series C-4 Original Issue Price for the Series C-4 Preferred Stock as of the date of filing this Certificate of Incorporation (subject to amendment from time to time for Recapitalizations as set forth elsewhere herein), the Series D Original Issue Price for the Series D Preferred Stock as of the date of filing this Certificate of Incorporation (subject to amendment from time to time for Recapitalizations as set forth elsewhere herein), the Series E Original Issue Price for the Series E Preferred Stock as of the date of filing this Certificate of Incorporation (subject to amendment from time to time for Recapitalizations as set forth elsewhere herein), the Series F Original Issue Price for the Series F Preferred Stock as of the date of filing this Certificate of Incorporation (subject to amendment from time to time for Recapitalizations as set forth elsewhere herein), the Series G Original Issue Price for the Series G Preferred Stock as of the date of filing this Certificate of Incorporation (subject to amendment from time to time for Recapitalizations as set forth elsewhere herein), the Series G-1 Original Issue Price for the Series G-1 Preferred Stock as of the date of filing this Certificate of Incorporation (subject to amendment from time to time for Recapitalizations as set forth elsewhere herein), the Series H Original Issue Price for the Series H Preferred Stock as of the date of filing this Certificate of Incorporation (subject to amendment from time to time for Recapitalizations as set forth elsewhere herein), the Series H-1 Original Issue Price for the Series H-1 Preferred Stock as of the date of filing this Certificate of Incorporation (subject to amendment from time to time for Recapitalizations as set forth elsewhere herein), the Series I Original Issue Price for the Series I Preferred Stock as of the date of filing this Certificate of Incorporation (subject to amendment from time to time for Recapitalizations as set forth elsewhere herein) and the Series I-1 Original Issue Price for the Series I-1 Preferred Stock as of the date of filing this Certificate of Incorporation (subject to amendment from time to time for Recapitalizations as set forth elsewhere herein).

(j) **“Original Issue Price”** shall mean \$0.0000125 per share for the FF Preferred Stock (subject to adjustment from time to time for Recapitalizations as set forth elsewhere herein), \$0.01875 per share for the Series AA Preferred Stock (subject to adjustment from time to time for Recapitalizations as set forth elsewhere herein) (the “**Series AA Original Issue Price**”), \$0.024875 per share for the Series AA-1 Preferred Stock (subject to adjustment from time to time for Recapitalizations as set forth elsewhere herein) (the “**Series AA-1 Original Issue Price**”), the original price per share paid to the Corporation by check, wire transfer, cancellation of indebtedness or any combination of the foregoing for the Series A Preferred Stock in accordance with a written agreement with the Corporation setting forth the purchase price per share of such Series A Preferred Stock (subject to adjustment from time to time for Recapitalizations as set forth elsewhere herein) (the “**Series A Original Issue Price**”), the original price per share paid to the Corporation by check, wire transfer, cancellation of indebtedness or any combination of the foregoing for the Series B Preferred Stock in accordance with a written agreement with the Corporation setting forth the purchase price per share of such Series B Preferred Stock (subject to adjustment from time to time for Recapitalizations as set forth elsewhere herein) (the “**Series B Original Issue Price**”), the original price per share paid to the Corporation by check, wire transfer, cancellation of indebtedness or any combination of the foregoing for the Series BB Preferred Stock in accordance with a written agreement with the Corporation setting forth the purchase price per share of such Series BB Preferred Stock (subject to adjustment from time to time for Recapitalizations as set forth elsewhere herein) (the “**Series**

BB Original Issue Price”), the original price per share paid to the Corporation by check, wire transfer, cancellation of indebtedness or any combination of the foregoing for the Series BB-1 Preferred Stock in accordance with a written agreement with the Corporation setting forth the purchase price per share of such Series BB-1 Preferred Stock (subject to adjustment from time to time for Recapitalizations as set forth elsewhere herein) (the “**Series BB-1 Original Issue Price**”), the original price per share paid to the Corporation by check, wire transfer, cancellation of indebtedness or any combination of the foregoing for the Series B-1 Preferred Stock in accordance with a written agreement with the Corporation setting forth the purchase price per share of such Series B-1 Preferred Stock (subject to adjustment from time to time for Recapitalizations as set forth elsewhere herein) (the “**Series B-1 Original Issue Price**”), the original price per share paid to the Corporation by check, wire transfer, cancellation of indebtedness or any combination of the foregoing for the Series C Preferred Stock in accordance with a written agreement with the Corporation setting forth the purchase price per share of such Series C Preferred Stock (subject to adjustment from time to time for Recapitalizations as set forth elsewhere herein) (the “**Series C Original Issue Price**”), the original price per share paid to the Corporation by check, wire transfer, cancellation of indebtedness or any combination of the foregoing for the Series C-1 Preferred Stock in accordance with a written agreement with the Corporation setting forth the purchase price per share of such Series C-1 Preferred Stock (subject to adjustment from time to time for Recapitalizations as set forth elsewhere herein) (the “**Series C-1 Original Issue Price**”), the original price per share paid to the Corporation by check, wire transfer, cancellation of indebtedness or any combination of the foregoing for the Series C-2 Preferred Stock in accordance with a written agreement with the Corporation setting forth the purchase price per share of such Series C-2 Preferred Stock (subject to adjustment from time to time for Recapitalizations as set forth elsewhere herein) (the “**Series C-2 Original Issue Price**”) and the original price per share paid to the Corporation by check, wire transfer, cancellation of indebtedness or any combination of the foregoing for the Series C-3 Preferred Stock in accordance with a written agreement with the Corporation setting forth the purchase price per share of such Series C-3 Preferred Stock (subject to adjustment from time to time for Recapitalizations as set forth elsewhere herein) (the “**Series C-3 Original Issue Price**”), the original price per share paid to the Corporation by check, wire transfer, cancellation of indebtedness or any combination of the foregoing for the Series C-4 Preferred Stock in accordance with a written agreement with the Corporation setting forth the purchase price per share of such Series C-4 Preferred Stock (subject to adjustment from time to time for Recapitalizations as set forth elsewhere herein) (the “**Series C-4 Original Issue Price**”) the original price per share paid to the Corporation by check, wire transfer, cancellation of indebtedness or any combination of the foregoing for the Series D Preferred Stock in accordance with a written agreement with the Corporation setting forth the purchase price per share of such Series D Preferred Stock (subject to adjustment from time to time for Recapitalizations as set forth elsewhere herein) (the “**Series D Original Issue Price**”), the original price per share paid to the Corporation by check, wire transfer, cancellation of indebtedness or any combination of the foregoing for the Series E Preferred Stock in accordance with a written agreement with the Corporation setting forth the purchase price per share of such Series E Preferred Stock (subject to adjustment from time to time for Recapitalizations as set forth elsewhere herein) (the “**Series E Original Issue Price**”), the original price per share paid to the Corporation by check, wire transfer, cancellation of indebtedness or any combination of the foregoing for the Series F Preferred Stock in accordance with a written agreement with the Corporation setting forth the purchase price per share of such Series F Preferred Stock (subject to adjustment from time to time for

Recapitalizations as set forth elsewhere herein) (the “**Series F Original Issue Price**”), the original price per share paid to the Corporation by check, wire transfer, cancellation of indebtedness or any combination of the foregoing for the Series G Preferred Stock in accordance with a written agreement with the Corporation setting forth the purchase price per share of such Series G Preferred Stock (subject to adjustment from time to time for Recapitalizations as set forth elsewhere herein) (the “**Series G Original Issue Price**”), the original price per share paid to the Corporation by check, wire transfer, cancellation of indebtedness or any combination of the foregoing for the Series G-1 Preferred Stock in accordance with a written agreement with the Corporation setting forth the purchase price per share of such Series G-1 Preferred Stock (subject to adjustment from time to time for Recapitalizations as set forth elsewhere herein) (the “**Series G-1 Original Issue Price**”), the original price per share paid to the Corporation by check, wire transfer, cancellation of indebtedness or any combination of the foregoing for the Series H Preferred Stock in accordance with a written agreement with the Corporation setting forth the purchase price per share of such Series H Preferred Stock (subject to adjustment from time to time for Recapitalizations as set forth elsewhere herein) (the “**Series H Original Issue Price**”), the original price per share paid to the Corporation by check, wire transfer, cancellation of indebtedness or any combination of the foregoing for the Series H-1 Preferred Stock in accordance with a written agreement with the Corporation setting forth the purchase price per share of such Series H-1 Preferred Stock (subject to adjustment from time to time for Recapitalizations as set forth elsewhere herein) (the “**Series H-1 Original Issue Price**”), the original price per share paid to the Corporation by check, wire transfer, cancellation of indebtedness or any combination of the foregoing for the Series I Preferred Stock in accordance with a written agreement with the Corporation setting forth the purchase price per share of such Series I Preferred Stock (subject to adjustment from time to time for Recapitalizations as set forth elsewhere herein) (the “**Series I Original Issue Price**”) and the original price per share paid to the Corporation by check, wire transfer, cancellation of indebtedness or any combination of the foregoing for the Series I-1 Preferred Stock in accordance with a written agreement with the Corporation setting forth the purchase price per share of such Series I-1 Preferred Stock (subject to adjustment from time to time for Recapitalizations as set forth elsewhere herein) (the “**Series I-1 Original Issue Price**”).

(k) **“Preferred Stock”** shall mean the Series AA Preferred Stock, Series AA-1 Preferred Stock, Series A Preferred Stock, Series B Preferred Stock, Series BB Preferred Stock, Series BB-1 Preferred Stock, Series B-1 Preferred Stock, Series C Preferred Stock, Series C-1 Preferred Stock, Series C-2 Preferred Stock, Series C-3 Preferred Stock, Series C-4 Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, Series G Preferred Stock, Series G-1 Preferred Stock, Series H Preferred Stock, Series H-1 Preferred Stock, Series I Preferred Stock and Series I-1 Preferred Stock.

(l) **“Recapitalization”** shall mean any stock dividend, stock split, combination of shares, reorganization, recapitalization, reclassification, subdivision or other similar event.

(m) **“Restated Certificate”** shall mean this Amended and Restated Certificate of Incorporation.

(n) **“Transfer”** shall mean, with respect to a share of Class B Common Stock, any sale, assignment, transfer, conveyance, hypothecation, grant of a security interest, gift or other transfer or disposition of such share or any legal, economic, or beneficial interest in such share,

whether or not for value and whether voluntary or involuntary or by operation of law, unless the Board of Directors (as defined below), in its sole and absolute discretion and prior to the occurrence of such sale, assignment, transfer, conveyance, hypothecation, grant of a security interest, gift or other transfer or disposition, in a valid board action referring to ARTICLE V, Section 4(b) of this Restated Certificate, decides that a waiver of the conversion provisions should take place for a particular transaction and that, as a result, such sale, assignment, transfer, conveyance, hypothecation, grant of a security interest, gift or other transfer or disposition of such share or any legal, economic, or beneficial interest in such share shall not constitute a "Transfer". A "Transfer" will also be deemed to have occurred with respect to all shares of Class B Common Stock beneficially held by an entity that is a Class B Stockholder, if after the IPO Date there is a Transfer of the voting power of the voting securities of such entity or any direct or indirect parent of such entity, such that the previous holders of such voting power no longer retain sole dispositive power and exclusive Voting Control with respect to the shares of Class B Common Stock held by such holder. Notwithstanding the foregoing, the following will not be considered a "Transfer": (a) the grant of a proxy to one or more officers or directors of the Corporation in connection with actions to be taken at an annual or special meeting of stockholders; (b) the pledge of shares of Class B Common Stock by a Class B Stockholder that creates a mere security interest in such shares pursuant to a *bona fide* loan or indebtedness transaction so long as the Class B Stockholder continues to exercise Voting Control over such pledged shares; provided, however, that a foreclosure on such shares of Class B Common Stock or other similar action by the pledgee shall constitute a "Transfer"; or (c) the fact that, as of the filing date of this Restated Certificate or at any time thereafter, the spouse of any holder of Class B Common Stock possesses or obtains an interest in such holder's shares of Class B Common Stock arising solely by reason of the application of the community property laws of any jurisdiction, so long as no other event or circumstance shall exist or have occurred that constitutes a "Transfer" of such shares of Class B Common Stock.

(o) **"Voting Control"** shall mean, with respect to a share of Class B Common Stock, the power to vote or direct the voting of such share by proxy, voting agreement or otherwise.

2. Dividend Provisions. The holders of shares of Series A Preferred Stock, Series B Preferred Stock, Series BB Preferred Stock, Series BB-1 Preferred Stock, Series B-1 Preferred Stock, Series C Preferred Stock, Series C-1 Preferred Stock, Series C-2 Preferred Stock, Series C-3 Preferred Stock, Series C-4 Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, Series G Preferred Stock, Series G-1 Preferred Stock, Series H Preferred Stock, Series H-1 Preferred Stock, Series I Preferred Stock and Series I-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 (payable other than in Common Stock or other securities and rights convertible into or entitling the holder thereof to receive, directly or indirectly, additional shares of Common Stock of the Corporation) on any other capital stock of the Corporation, at the rate of (a) 6% of the Series A Original Issue Price per share (as adjusted for stock splits, stock dividends, reclassification and the like) per annum on each outstanding share of Series A Preferred Stock then held by them, (b) 6% of the Series B Original Issue Price per share (as adjusted for stock splits, stock dividends, reclassification and the like) per annum on each outstanding share of Series B Preferred Stock then held by them, (c) 6% of the Series BB Original Issue Price per share (as adjusted for stock splits, stock dividends, reclassification and the like) per annum on each outstanding share of Series BB Preferred Stock then held by them, (d) 6% of the

Series BB-1 Original Issue Price per share (as adjusted for stock splits, stock dividends, reclassification and the like) per annum on each outstanding share of Series BB-1 Preferred Stock then held by them, (e) 6% of the Series B-1 Original Issue Price per share (as adjusted for stock splits, stock dividends, reclassification and the like) per annum on each outstanding share of Series B-1 Preferred Stock then held by them, (f) 6% of the Series C Original Issue Price per share (as adjusted for stock splits, stock dividends, reclassification and the like) per annum on each outstanding share of Series C Preferred Stock then held by them, (g) 6% of the Series C-1 Original Issue Price per share (as adjusted for stock splits, stock dividends, reclassification and the like) per annum on each outstanding share of Series C-1 Preferred Stock then held by them, (h) 6% of the Series C-2 Original Issue Price per share (as adjusted for stock splits, stock dividends, reclassification and the like) per annum on each outstanding share of Series C-2 Preferred Stock then held by them, (i) 6% of the Series C-3 Original Issue Price per share (as adjusted for stock splits, stock dividends, reclassification and the like) per annum on each outstanding share of Series C-3 Preferred Stock then held by them, (j) 6% of the Series C-4 Original Issue Price per share (as adjusted for stock splits, stock dividends, reclassification and the like) per annum on each outstanding share of Series C-4 Preferred Stock then held by them, (k) 6% of the Series D Original Issue Price per share (as adjusted for stock splits, stock dividends, reclassification and the like) per annum on each outstanding share of Series D Preferred Stock then held by them, (l) 6% of the Series E Original Issue Price per share (as adjusted for stock splits, stock dividends, reclassification and the like) per annum on each outstanding share of Series E Preferred Stock then held by them, (m) 6% of the Series F Original Issue Price per share (as adjusted for stock splits, stock dividends, reclassification and the like) per annum on each outstanding share of Series F Preferred Stock then held by them, (n) 6% of the Series G Original Issue Price per share (as adjusted for stock splits, stock dividends, reclassification and the like) per annum on each outstanding share of Series G Preferred Stock then held by them, (o) 6% of the Series G-1 Original Issue Price per share (as adjusted for stock splits, stock dividends, reclassification and the like) per annum on each outstanding share of Series G-1 Preferred Stock then held by them, (p) 6% of the Series H Original Issue Price per share (as adjusted for stock splits, stock dividends, reclassification and the like) per annum on each outstanding share of Series H Preferred Stock then held by them, (q) 6% of the Series H-1 Original Issue Price per share (as adjusted for stock splits, stock dividends, reclassification and the like) per annum on each outstanding share of Series H-1 Preferred Stock then held by them, (r) 6% of the Series I Original Issue Price per share (as adjusted for stock splits, stock dividends, reclassification and the like) per annum on each outstanding share of Series I Preferred Stock then held by them and (s) 6% of the Series I-1 Original Issue Price per share (as adjusted for stock splits, stock dividends, reclassification and the like) per annum on each outstanding share of Series I-1 Preferred Stock then held by them (the “**Dividend Rate**”); payable when, as and if declared by the Board of Directors of the Corporation (the “**Board of Directors**”). Such dividends shall not be cumulative. Only after payment of such dividends may any additional dividends be distributed among the holders of Preferred Stock, FF Preferred Stock and Common Stock, in which case such dividends shall be distributed pro rata based on the number of shares of Common Stock then held by each holder (assuming conversion of all such Preferred Stock and FF Preferred Stock into Common Stock, with each of the Series B-1 Preferred Stock and the Series C-4 Preferred Stock treated as being convertible into Common Stock for this purpose, notwithstanding the Regulatory Conversion Restriction (as defined below)).

3. Liquidation Rights.

(a) Liquidation Preference. In the event of any liquidation, dissolution or winding up of the Corporation, either voluntary or involuntary, the holders of the Preferred Stock shall be entitled to receive, prior and in preference to any Distribution of any of the assets of the Corporation to the holders of FF Preferred Stock and the holders of Common Stock by reason of their ownership of such stock, an amount per share for each share of Series AA Preferred Stock, Series AA-1 Preferred Stock, Series A Preferred Stock, Series B Preferred Stock, Series BB-1 Preferred Stock, Series B-1 Preferred Stock, Series C Preferred Stock, Series C-1 Preferred Stock, Series C-2 Preferred Stock, Series C-4 Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, Series G Preferred Stock, Series G-1 Preferred Stock, Series H Preferred Stock, Series H-1 Preferred Stock, Series I Preferred Stock or Series I-1 Preferred Stock held by them equal to the greater of (i) the Liquidation Preference specified for such share of Series AA Preferred Stock, Series AA-1 Preferred Stock, Series A Preferred Stock, Series B Preferred Stock, Series BB-1 Preferred Stock, Series B-1 Preferred Stock, Series C Preferred Stock, Series C-1 Preferred Stock, Series C-2 Preferred Stock, Series C-4 Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, Series G Preferred Stock, Series G-1 Preferred Stock, Series H Preferred Stock, Series H-1 Preferred Stock, Series I Preferred Stock or Series I-1 Preferred Stock plus any declared but unpaid dividends, or such lesser amount as may be approved by the holders of the majority of the outstanding shares of each such series of Preferred Stock, voting as separate classes (with each of the Series B-1 Preferred Stock and Series C-4 Preferred Stock not subject to the Regulatory Voting Restriction for purposes of this specific vote), and (ii) such amount per share as would have been payable had all shares of Preferred Stock been converted into Common Stock pursuant to Section 4 immediately prior to such liquidation, dissolution or winding up (with each of the Series B-1 Preferred Stock and Series C-4 Preferred Stock treated as being convertible into Common Stock for this purpose, notwithstanding the Regulatory Conversion Restriction), and in the case of the Series BB Preferred Stock, an amount per share for each share of Series BB Preferred Stock held by them equal to the Liquidation Preference specified for such shares of Series BB Preferred Stock. If upon the liquidation, dissolution or winding up of the Corporation, the assets of the Corporation legally available for distribution to the holders of the Preferred Stock are insufficient to permit the payment to such holders of the full amounts specified in this Section 3(a), then the entire assets of the Corporation legally available for distribution shall be distributed with equal priority and *pro rata* among the holders of the Preferred Stock in proportion to the full amounts they would otherwise be entitled to receive pursuant to this Section 3(a).

(b) Remaining Assets. After the payment or setting aside for payment to the holders of Preferred Stock of the full amounts specified in Section 3(a) above, the entire remaining assets of the Corporation legally available for distribution shall be distributed *pro rata* to holders of the Series BB Preferred Stock, Series C-3 Preferred Stock, FF Preferred Stock and Common Stock of the Corporation in proportion to the number of shares of Common Stock held by them (assuming conversion of all such Series BB Preferred Stock, Series C-3 Preferred Stock and FF Preferred Stock into Common Stock).

(c) Shares not Treated as Both Preferred Stock and Common Stock in any Distribution. Except in the case of Series BB Preferred Stock and Series C-3 Preferred Stock, 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.

(d) Reorganization. For purposes of this Section 3, a liquidation, dissolution or winding up of the Corporation shall be deemed to be occasioned by, or to include, (i) the acquisition of the Corporation by another entity by means of any transaction or series of related transactions to which the Corporation is party (including, without limitation, any stock acquisition, reorganization, merger or consolidation but excluding any sale of stock for capital raising purposes) other than a transaction or series of related transactions in which the holders of the voting securities of the Corporation outstanding immediately prior to such transaction or series of related transactions retain, immediately after such transaction or series of related transactions, as a result of shares in the Corporation held by such holders prior to such transaction or series of related transactions, at least a majority of the total voting power represented by the outstanding voting securities of the Corporation or such other surviving or resulting entity (or if the Corporation or such other surviving or resulting entity is a wholly-owned subsidiary immediately following such acquisition, its parent); (ii) a sale, lease, exclusive license or other disposition of all or substantially all of the assets of the Corporation and its subsidiaries taken as a whole by means of any transaction or series of related transactions (including, without limitation, the Corporation's intellectual property), except where such sale, lease or other disposition is to a wholly-owned subsidiary of the Corporation; or (iii) any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary. The treatment of any transaction or series of related transactions as a liquidation, dissolution or winding up pursuant to clauses (i), (ii) or (iii) (each, a "**Liquidation Transaction**") of the preceding sentence may be waived by the vote or written consent of the holders of a majority of the outstanding Preferred Stock (voting together as a single class and not as a separate series, and on an as-converted basis, with each of the Series B-1 Preferred Stock and Series C-4 Preferred Stock not subject to the Regulatory Voting Restriction for purposes of this specific vote or written consent), except as provided in ARTICLE V, Section 4(b)(i)(ii)(y) of this Restated Certificate; provided that, solely with respect to the Series I Preferred Stock and the Series I-1 Preferred Stock, such waiver shall only be effective if such waiver is also approved by the vote or written consent of the holders of a majority of the outstanding shares of Series I Preferred Stock and Series I-1 Preferred Stock (voting together as a single class and not as a separate series, and on an-as converted basis) (the "**Series I Requisite Holders**").

(e) Valuation of Non-Cash Consideration. If any assets of the Corporation distributed to stockholders in connection with any liquidation, dissolution or winding up of the Corporation are other than cash, then the value of such assets shall be their fair market value as determined in good faith by the Board of Directors, *except that* any publicly-traded securities to be distributed to stockholders in a liquidation, dissolution or winding up of the Corporation shall be valued as follows:

(i) if the securities are then traded on a national securities exchange, then the value of the securities shall be deemed to be the average of the closing prices of the securities on such exchange over the ten (10) trading day period ending five (5) trading days prior to the Distribution; and

(ii) if the securities are actively traded over-the-counter, then the value of the securities shall be deemed to be the average of the closing bid prices of the securities over the ten (10) trading day period ending five (5) trading days prior to the Distribution.

In the event of a merger or other acquisition of the Corporation by another entity, the Distribution date shall be deemed to be the date such transaction closes.

For the purposes of this subsection 3(e), “**trading day**” shall mean any day which the exchange or system on which the securities to be distributed are traded is open and “**closing prices**” or “**closing bid prices**” shall be deemed to be: (i) for securities traded primarily on the New York Stock Exchange, the American Stock Exchange or a Nasdaq market, the last reported trade price or sale price, as the case may be, at 4:00 p.m., New York time, on that day and (ii) for securities listed or traded on other exchanges, markets and systems, the market price as of the end of the regular hours trading period that is generally accepted as such for such exchange, market or system. If, after the date hereof, the benchmark times generally accepted in the securities industry for determining the market price of a stock as of a given trading day shall change from those set forth above, the fair market value shall be determined as of such other generally accepted benchmark times.

(f) Allocation of Escrow. In the event of a Liquidation Transaction pursuant to subsection 3(d)(i), if any portion of the consideration payable to the stockholders of the Corporation is placed into escrow and/or is payable to the stockholders of the Corporation subject to contingencies, the agreement or plan of merger or consolidation for such transaction shall provide that such consideration to be placed into escrow and/or payable to the stockholders of the Corporation subject to contingencies shall be withheld from each stockholder’s portion of the total consideration on a pro rata basis based on the total dollars received by each such stockholder.

(g) Effect of Noncompliance. In the event the requirements of this Section 3 are not complied with, the Corporation shall forthwith either cause the closing of the Liquidation Transaction to be postponed until the requirements of this Section 3 have been complied with or cancel such Liquidation Transaction, in which event the rights, preferences, privileges and restrictions of the holders of Preferred Stock shall revert to and be the same as such rights, preferences, privileges and restrictions existing immediately prior to the date of the first notice referred to in ARTICLE V, Section 4(g).

4. Conversion. Subject to ARTICLE XIII, the holders of the Preferred Stock, FF Preferred Stock and Class B Common Stock shall have conversion rights as follows. For purposes of this Section 4 only, the term “**Preferred Stock**” shall include both Preferred Stock and FF Preferred Stock.

(a) Right to Convert.

(i) Right to Convert Preferred Stock. Each share of Preferred Stock, subject, in the case of the Series B-1 Preferred Stock and Series C-4 Preferred Stock to the provisions of ARTICLE XIII, 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 Corporation or any transfer agent for the Preferred Stock, into that number of fully-paid, nonassessable shares of Class B Common

Stock determined by dividing the Original Issue Price for the relevant series by the Conversion Price for such series. (The number of shares of Class B Common Stock into which each share of Preferred Stock of a series may be converted is hereinafter referred to as the “**Conversion Rate**” for each such series.) Upon any decrease or increase in the Conversion Price for any series of Preferred Stock, as described in this Section 4, the Conversion Rate for such series shall be appropriately increased or decreased. All rights incident to a share of Preferred Stock contained herein will terminate automatically upon any conversion of such share into Class B Common Stock (except that the Corporation shall pay in cash any declared but unpaid dividends on such share of Preferred Stock).

(ii) Special Rights to Convert FF Preferred Stock.

(A) Each share of FF Preferred Stock that is not subject to a repurchase option in favor of the Corporation based upon continued service to the Corporation shall automatically convert into one share of a subsequent series or class of preferred stock (for purposes of this subsection 4(a)(ii) only, “**Subsequent Preferred Stock**”) of the Corporation at the Conversion Ratio effective immediately upon the purchase by an investor of such FF Preferred Stock in connection with or following an Equity Financing (as defined below). “**Conversion Ratio**” shall mean, for each Equity Financing, the inverse of the ratio at which a share of Subsequent Preferred Stock issued in such Equity Financing is convertible into Common Stock of the Corporation (i.e. 1 divided by such conversion ratio), and “**Equity Financing**” shall mean an equity financing of the Corporation in which the Corporation signs a purchase agreement and sells and issues Subsequent Preferred Stock. By way of example only, in the event that one share of Subsequent Preferred Stock issued in the Equity Financing is convertible into two shares of Common Stock, the Conversion Ratio shall be one-half (1/2).

(B) Each share of FF 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 Corporation or any transfer agent for such stock, into that number of fully-paid, nonassessable shares of Class B Common Stock as is determined by dividing the Original Issue Price for the FF Preferred Stock by the Conversion Price for such share.

(C) Any transfer of shares of FF Preferred Stock that is not (x) made in connection with an Equity Financing, or (y) authorized by a majority of the Board shall be deemed an election of an option to convert such shares into Class B Common Stock, and each such transferred share of FF Preferred Stock shall automatically convert into such number of fully paid and nonassessable shares of Class B Common Stock as is determined by dividing the Original Issue Price for the FF Preferred Stock by the Conversion Price for such share, effective immediately prior to such transfer.

(iii) [Reserved.]

(iv) Right to Convert Class B Common Stock. Notwithstanding anything to the contrary contained herein, each share of Class B Common Stock shall be convertible into one (1) fully-paid and nonassessable share of Class A Common Stock at the option of the holder thereof at any time upon written notice to the Corporation.

(b) Automatic Conversion.

(i) General. Subject to ARTICLE XIII, each share of Preferred Stock shall automatically be converted into fully-paid, non-assessable shares of Class B Common Stock at the then effective Conversion Rate for such share (i) immediately prior to (A) the closing of an initial public offering pursuant to an effective registration statement filed under the Securities Act of 1933, as amended (the “**Securities Act**”), covering the offer and sale of Common Stock or (B) the listing by the Corporation of the Corporation’s Common Stock on a registered securities exchange (each, a “**Qualified IPO**”), or (ii) upon the receipt by the Corporation of a written request for such conversion from (x) the holders of a majority of the Preferred Stock then outstanding (voting as a single class and on an as-converted basis), specifically excluding for such purpose the FF Preferred Stock, the Series B-1 Preferred Stock and the Series C-4 Preferred Stock, and (y) if such conversion is requested in connection with a transaction constituting a Liquidation Transaction under ARTICLE V, Section 3(d)(i) and (ii) of this Restated Certificate, the holders of a majority of the Series BB Preferred Stock then outstanding (voting as a series and on an as-converted basis), or, if later, the effective date for conversion specified in such requests; provided that, notwithstanding anything to the contrary in this Restated Certificate, any conversion of the shares of Series I Preferred Stock and Series I-1 Preferred Stock into Class B Common Stock pursuant to clause (ii) of this subsection 4(b)(i) shall also require the approval of the Series I Requisite Holders (each of the events referred to in (i) and (ii) are referred to herein as an “**Automatic Conversion Event**”).

(ii) [Reserved.]

(iii) Automatic Conversion of Class B Common Stock Upon Transfer.

(A) Following the IPO Date, each share of Class B Common Stock shall automatically, without further action, be converted into one (1) fully paid and nonassessable share of Class A Common Stock as provided herein upon the Transfer (as defined above) of such share; provided, however, that a Transfer of Class B Common Stock by a Class B Stockholder to any of the following Class B Permitted Entities, or from any of the following Class B Permitted Entities back to such Class B Stockholder or to any other Class B Permitted Entity by or for such Class B Stockholder shall not trigger such automatic conversion:

(i) a trust for the benefit of such Class B Stockholder and for the benefit of no other person, provided such Transfer does not involve any payment of cash, securities, property or other consideration (other than an interest in such trust) to such Class B Stockholder (a “**Clause (i) Permitted Trust**”), and, provided, further, that in the event and at such time as such Class B Stockholder is no longer the exclusive beneficiary of such trust, each share of Class B Common Stock then held by such trust shall automatically convert into one (1) fully paid and nonassessable share of Class A Common Stock;

(ii) a trust for the benefit of persons other than such Class B Stockholder so long as such Class B Stockholder has sole dispositive power and exclusive Voting Control (as defined below) with respect to the shares

of Class B Common Stock held by such trust, provided such Transfer does not involve any payment of cash, securities, property, or other consideration (other than an interest in such trust) to such Class B Stockholder (a “**Clause (ii) Permitted Trust**”), and, provided, further, that in the event and at such time as such Class B Stockholder no longer has sole dispositive power and exclusive Voting Control with respect to the shares of Class B Common Stock held by such trust, each share of Class B Common Stock then held by such trust shall automatically convert into one (1) fully paid and nonassessable share of Class A Common Stock;

(iii) a trust under the terms of which such Class B Stockholder has retained a “qualified interest” within the meaning of §2702(b)(1) of the Internal Revenue Code (the “**Code**”) or a reversionary interest so long as such Class B Stockholder has sole dispositive power and exclusive Voting Control with respect to the shares of Class B Common Stock held by such trust (a “**Clause (iii) Permitted Trust**”) and provided, further, that in the event and at such time as such holder of Class B Common Stock no longer has sole dispositive power and exclusive Voting Control with respect to the shares of Class B Common Stock held by such trust, each share of Class B Common Stock then held by such trust shall automatically convert into one (1) fully paid and nonassessable share of Class A Common Stock;

(iv) an Individual Retirement Account, as defined in Section 408(a) of the Code, or a pension, profit sharing, stock bonus, or other type of plan or trust of which such Class B Stockholder is a participant or beneficiary and which satisfies the requirements for qualification under Section 401 of the Code; provided that in each case such Class B Stockholder has sole dispositive power and exclusive Voting Control with respect to the shares of Class B Common Stock held in such account, plan or trust (each, a “**Permitted IRA**”), and provided, further, that in the event and at such time as such Class B Stockholder no longer has sole dispositive power and exclusive Voting Control with respect to the shares of Class B Common Stock held by such account, plan or trust, each share of Class B Common Stock then held by or in such Individual Retirement Account, pension, profit sharing, stock bonus, or other type of plan or trust shall automatically convert into one (1) fully paid and nonassessable share of Class A Common Stock;

(v) a corporation in which such holder of Class B Common Stock directly, or indirectly through one or more Class B Permitted Entities, owns shares with sufficient Voting Control in the corporation, or otherwise has legally enforceable rights, such that such Class B Stockholder retains sole dispositive power and exclusive Voting Control with respect to the shares of Class B Common Stock held by such corporation (a “**Permitted Corporation**”); provided that in the event and at such time as such Class B Stockholder no longer has sole dispositive power and exclusive Voting Control with respect to the shares of Class B Common Stock held by such corporation, each share of Class B Common Stock then held by such corporation shall automatically convert into one (1) fully paid and nonassessable share of Class A Common Stock;

(vi) a partnership in which such Class B Stockholder directly, or indirectly through one or more Class B Permitted Entities, owns partnership interests with sufficient Voting Control in the partnership, or otherwise has legally enforceable rights, such that such Class B Stockholder retains sole dispositive power and exclusive Voting Control with respect to the shares of Class B Common Stock held by such partnership (a “**Permitted Partnership**”); provided that in the event and at such time as the Class B Stockholder no longer has sole dispositive power and exclusive Voting Control with respect to the shares of Class B Common Stock held by such partnership, each share of Class B Common Stock then held by such partnership shall automatically convert into one (1) fully paid and nonassessable share of Class A Common Stock;

(vii) a limited liability company in which such Class B Stockholder directly, or indirectly through one or more Class B Permitted Entities, owns membership interests with sufficient Voting Control in the limited liability company, or otherwise has legally enforceable rights, such that such Class B Stockholder retains sole dispositive power and exclusive Voting Control with respect to the shares of Class B Common Stock held by such limited liability company (a “**Permitted LLC**”); provided that in the event and at such time as such Class B Stockholder no longer has sole dispositive power and exclusive Voting Control with respect to the shares of Class B Common Stock held by such limited liability company, each share of Class B Common Stock then held by such limited liability company shall automatically convert into one (1) fully paid and nonassessable share of Class A Common Stock; or

(viii) if such Class B Stockholder is not a natural person, a natural person who has sole dispositive power and exclusive Voting Control with respect to the shares of Class B Common Stock held by such Class B Stockholder at the time of the Transfer thereof (a “**Permitted Owner**”).

Notwithstanding the foregoing, if the shares of Class B Common Stock held by a Clause (ii) Permitted Trust or a Clause (iii) Permitted Trust would constitute stock of a “controlled corporation” (as defined in Section 2036(b)(2) of the Code), then such shares of Class B Common Stock will not automatically convert into Class A Common Stock if such Class B Stockholder does not directly or indirectly retain Voting Control over such shares until such time as the shares of Class B Common Stock would no longer constitute stock of a “controlled corporation” pursuant to the Code (such time is referred to as the “**Voting Shift**”). If a Class B Stockholder does not, within thirty (30) business days following the Voting Shift, directly or indirectly assume sole exclusive Voting Control with respect to such shares of Class B Common Stock, each such share of Class B Common Stock shall automatically convert into one (1) fully paid and nonassessable share of Class A Common Stock.

(c) Mechanics of Conversion.

(i) Preferred Stock. No fractional shares of Class B Common Stock shall be issued upon conversion of Preferred Stock. In lieu of any fractional shares to which the holder would otherwise be entitled, the Corporation shall pay cash equal to such fraction multiplied

by the then fair market value of a share of Class B Common Stock as determined by the Board of Directors. For such purpose, all shares of Preferred Stock held by each holder of Preferred Stock shall be aggregated, and any resulting fractional share of Class B Common Stock shall be paid in cash. Before any holder of Preferred Stock shall be entitled to convert the same into full shares of Class B Common Stock, and to receive certificates therefor, he shall either (A) surrender the certificate or certificates therefor, duly endorsed, at the office of the Corporation or of any transfer agent for the Preferred Stock or (B) notify the Corporation or its transfer agent that such certificates have been lost, stolen or destroyed and execute an agreement satisfactory to the Corporation to indemnify the Corporation from any loss incurred by it in connection with such certificates, and shall give written notice to the Corporation at such office that he elects to convert the same; *provided, however,* that on the date of an Automatic Conversion Event, the outstanding shares of Preferred Stock, subject, in the case of the Series B-1 Preferred Stock or Series C-4 Preferred Stock, to the provisions of ARTICLE XIII, 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 further,* however, that the Corporation shall not be obligated to issue certificates evidencing the shares of Class B Common Stock issuable upon such Automatic Conversion Event unless either the certificates evidencing such shares of Preferred Stock are delivered to the Corporation or its transfer agent as provided above, or the holder notifies the Corporation or its transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the Corporation to indemnify the Corporation from any loss incurred by it in connection with such certificates. On the date of the occurrence of an Automatic Conversion Event, each holder of record of shares of Preferred Stock, subject, in the case of the Series B-1 Preferred Stock or Series C-4 Preferred Stock, to the provisions of ARTICLE XIII, shall be deemed to be the holder of record of the Class B Common Stock issuable upon such conversion, notwithstanding that the certificates representing such shares of Preferred Stock shall not have been surrendered at the office of the Corporation, that notice from the Corporation shall not have been received by any holder of record of shares of Preferred Stock, or that the certificates evidencing such shares of Common Stock shall not then be actually delivered to such holder.

(ii) Class B Common Stock. No fractional shares of Class A Common Stock shall be issued upon conversion of Class B Common Stock. In lieu of any fractional shares to which the holder would otherwise be entitled, the Corporation shall pay cash equal to such fraction multiplied by the then fair market value of a share of Class A Common Stock as determined by the Board of Directors. For such purpose, all shares of Class B Common Stock held by each holder of Class B Common Stock shall be aggregated, and any resulting fractional share of Class A Common Stock shall be paid in cash. Before any holder of Class B Common Stock shall be entitled to convert the same into full shares of Class A Common Stock, and to receive certificates therefor, he shall either (A) surrender the certificate or certificates therefor, duly endorsed, at the office of the Corporation or of any transfer agent for the Class B Common Stock or (B) notify the Corporation or its transfer agent that such certificates have been lost, stolen or destroyed and execute an agreement satisfactory to the Corporation to indemnify the Corporation from any loss incurred by it in connection with such certificates, and shall give written notice to the Corporation at such office that he elects to convert the same; *provided, however,* that on the occurrence of such automatic conversion of the Class B Common Stock, such outstanding shares of Class B Common 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 further*, however, that the Corporation shall not be obligated to issue certificates evidencing the shares of Class A Common Stock issuable upon such Class B Common Stock unless either the certificates evidencing such shares of Class B Common Stock are delivered to the Corporation or its transfer agent as provided above, or the holder notifies the Corporation or its transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the Corporation to indemnify the Corporation from any loss incurred by it in connection with such certificates. On the date of the occurrence of such automatic conversion of the Class B Common Stock, each holder of record of shares of Class B Common Stock shall be deemed to be the holder of record of the Class A Common Stock issuable upon such conversion, notwithstanding that the certificates representing such shares of Class B Common Stock shall not have been surrendered at the office of the Corporation, that notice from the Corporation shall not have been received by any holder of record of shares of Class B Common Stock, or that the certificates evidencing such shares of Class A Common Stock shall not then be actually delivered to such holder.

(d) Conversion Price Adjustments of Preferred Stock for Certain Dilutive Issuances, Subdivisions and Combinations. The Conversion Price of the Preferred Stock shall be subject to adjustment from time to time as follows:

(i) Issuance of Additional Stock Below Purchase Price. If the Corporation should issue, at any time on or after the date upon which any shares of Series I Preferred Stock or Series I-1 Preferred Stock were first issued (the “**Purchase Date**”), any Additional Stock (as defined below) without consideration or for a consideration per share, in the case of Series A Preferred Stock, less than the Conversion Price for the Series A Preferred Stock, or, in the case of Series B Preferred Stock, less than the Conversion Price for the Series B Preferred Stock, or, in the case of Series BB Preferred Stock, less than the Conversion Price for the Series BB Preferred Stock, or, in the case of Series BB-1 Preferred Stock, less than the Conversion Price for the Series BB-1 Preferred Stock, or, in the case of Series C Preferred Stock, less than the Conversion Price for the Series C Preferred Stock, or, in the case of Series C-1 Preferred Stock, less than the Conversion Price for the Series C-1 Preferred Stock, or, in the case of Series C-2 Preferred Stock, less than the Conversion Price for the Series C-2 Preferred Stock, or, in the case of Series C-3 Preferred Stock, less than the Conversion Price for the Series C-3 Preferred Stock, or, in the case of Series D Preferred Stock, less than the Conversion Price for the Series D Preferred Stock, or, in the case of Series E Preferred Stock, less than the Conversion Price for the Series E Preferred Stock, or, in the case of Series F Preferred Stock, less than the Conversion Price for the Series F Preferred Stock, or, in the case of Series G Preferred Stock, less than the Conversion Price for the Series G Preferred Stock, or, in the case of Series G-1 Preferred Stock, less than the Conversion Price for the Series G-1 Preferred Stock, or, in the case of Series H Preferred Stock, less than the Conversion Price for the Series H Preferred Stock, or, in the case of Series H-1 Preferred Stock, less than the Conversion Price for the Series H-1 Preferred Stock, or, in the case of Series I Preferred Stock, less than the Conversion Price for the Series I Preferred Stock, or, in the case of Series I-1 Preferred Stock, less than the Conversion Price for the Series I-1 Preferred Stock, in effect immediately prior to the issuance of such Additional Stock (as adjusted for stock splits, stock dividends, reclassification and the like), then the Conversion Price for the Series A Preferred Stock, if applicable, the Conversion Price for the Series B Preferred Stock, if applicable, the Conversion Price for the Series BB Preferred Stock, if applicable, the Conversion Price for the Series BB-1 Preferred Stock, if applicable, the Conversion Price for the Series C Preferred Stock,

if applicable, the Conversion Price for the Series C-1 Preferred Stock, if applicable, the Conversion Price for the Series C-2 Preferred Stock, if applicable, the Conversion Price for the Series C-3 Preferred Stock, if applicable, the Conversion Price for the Series D Preferred Stock, if applicable, the Conversion Price for the Series E Preferred Stock, if applicable, the Conversion Price for the Series F Preferred Stock, if applicable, the Conversion Price for the Series G Preferred Stock, if applicable, the Conversion Price for the Series G-1 Preferred Stock, if applicable, the Conversion Price for the Series H Preferred Stock, if applicable, the Conversion Price for the Series H-1 Preferred Stock, if applicable, the Conversion Price for the Series I Preferred Stock, if applicable, and the Conversion Price for the Series I-1 Preferred Stock, if applicable, in effect immediately prior to each such issuance shall automatically be adjusted as set forth in this Section 4(d)(i), unless otherwise provided in this Section 4(d)(i) (including, without limitation, being subject to Section 4(d)(i)(G)).

(A) Adjustment Formula. Whenever the Conversion Price is adjusted pursuant to this Section 4(d)(i), the new Conversion Price for the Series A Preferred Stock, the Series B Preferred Stock, the Series BB Preferred Stock, the Series BB-1 Preferred Stock, the Series C Preferred Stock, the Series C-1 Preferred Stock, the Series C-2 Preferred Stock, the Series C-3 Preferred Stock, the Series D Preferred Stock, the Series E Preferred Stock, the Series F Preferred Stock, the Series G Preferred Stock, the Series G-1 Preferred Stock, the Series H Preferred Stock, the Series H-1 Preferred Stock, the Series I Preferred Stock or the Series I-1 Preferred Stock, shall be determined by multiplying the Conversion Price for the Series A Preferred Stock, the Series B Preferred Stock, the Series BB Preferred Stock, the Series BB-1 Preferred Stock, the Series C Preferred Stock, the Series C-1 Preferred Stock, the Series C-2 Preferred Stock, the Series C-3 Preferred Stock, the Series D Preferred Stock, the Series E Preferred Stock, the Series F Preferred Stock, the Series G Preferred Stock the Series G-1 Preferred Stock, the Series H Preferred Stock, the Series H-1 Preferred Stock, the Series I Preferred Stock and the Series I-1 Preferred Stock, respectively, then in effect by a fraction, (x) the numerator of which shall be the number of shares of Common Stock outstanding immediately prior to such issuance (the “**Outstanding Common**”) plus the number of shares of Common Stock that the aggregate consideration received by the Corporation for such issuance would purchase at such Conversion Price; and (y) the denominator of which shall be the number of shares of Outstanding Common plus the number of shares of such Additional Stock. For purposes of the foregoing calculation, the term “Outstanding Common” shall include shares of Common Stock deemed issued pursuant to Section 4(d)(i)(E) below.

(B) Definition of “Additional Stock”. For purposes of this Section 4(d)(i), “**Additional Stock**” shall mean any shares of Common Stock issued (or deemed to have been issued pursuant to Section 4(d)(i)(E)) by the Corporation after the Purchase Date, other than:

(1) securities issued pursuant to stock splits, stock dividends or similar transactions, as described in Sections 4(d)(ii) and (iii) hereof;

(2) securities issuable upon conversion, exchange or exercise of convertible, exchangeable or exercisable securities outstanding as of the Purchase Date including, without limitation, warrants, notes or options, but only if

any such conversion, exchange or exercise is made on the same terms and conditions as in existence on the date of filing of this Certificate of Incorporation;

(3) Common Stock (or options therefor) issued or issuable to employees, consultants, officers or directors of the Corporation pursuant to stock option plans or restricted stock plans or agreements approved by the Board of Directors;

(4) Common Stock issued or issuable in a Qualified IPO;

(5) up to 40,000,000 securities (or such higher amount as may be approved by the Board of Directors, including the Series A Director) issued or issuable in connection with the acquisition by the Corporation of another company or business;

(6) up to 40,000,000 securities (or such higher amount as may be approved by the Board of Directors, including the Series A Director) issued or issuable to financial institutions, equipment lessors, brokers or similar persons in connection with commercial credit arrangements, equipment financings, commercial property lease transactions, or similar transactions;

(7) up to 40,000,000 securities (or such higher amount as may be approved by the Board of Directors, including the Series A Director) issued or issuable to an entity as a component of any business relationship with such entity primarily for the purpose of (A) joint venture, technology licensing or development activities, (B) distribution, supply or manufacture of the Corporation's products or services or (C) any other arrangements involving corporate partners that are primarily for purposes other than raising capital, the terms of which business relationship with such entity are approved by the Board of Directors;

(8) Common Stock issued or issuable upon conversion of the Preferred Stock or FF Preferred Stock;

(9) securities issued or issuable in any other transaction in which exemption from these price-based antidilution provisions is approved by the affirmative vote of at least a majority of the then-outstanding shares of Preferred Stock, with each of the Series B-1 Preferred Stock and Series C-4 Preferred Stock not subject to the Regulatory Voting Restriction for purposes of this specific vote; provided that, notwithstanding the foregoing, no exemption from these price-based antidilution provisions as a result of an affirmative vote under this Section 4(d)(i)(B)(9) shall apply to the holders of Series I Preferred Stock and the Series I-1 Preferred Stock (with respect to the shares of Series I Preferred Stock and the Series I-1 Preferred Stock held by such stockholders) unless such exemption is also approved by the affirmative vote or written consent of the Series I Requisite Holders;

(10) Series B Preferred Stock issued upon conversion of the Series B-1 Preferred Stock;

(11) Common Stock issued or issuable upon the exercise of warrants issued to holders of Series C Preferred Stock;

(12) Common Stock issued or issuable upon the exercise of warrants issued to holders of Series D Preferred Stock;

(13) Series C-2 Preferred Stock issued upon conversion of the Series C-4 Preferred Stock; and

(14) Class A Common Stock issued or issuable upon conversion of Class B Common Stock.

(C) No Fractional Adjustments. No adjustment of the Conversion Price for the Preferred Stock shall be made in an amount less than one 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.

(D) Determination of Consideration. 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 Corporation for any underwriting or otherwise in connection with the issuance and sale thereof. 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) Deemed Issuances of Common Stock. In the case of the issuance of securities or rights convertible into, or entitling the holder thereof to receive directly or indirectly, additional shares of Common Stock (the "**Common Stock Equivalents**"), the following provisions shall apply for all purposes of this Section 4(d)(i):

(1) The aggregate maximum number of shares of Common Stock deliverable upon conversion, exchange or exercise (assuming the satisfaction of any conditions to convertibility, exchangeability or exercisability, including, without limitation, the passage of time, but without taking into account potential antidilution adjustments) of any Common Stock Equivalents and subsequent conversion, exchange or exercise thereof shall be deemed to have been issued at the time such securities were issued or such Common Stock Equivalents were issued and for a consideration equal to the consideration, if any, received by the Corporation for any such securities and related Common Stock Equivalents (excluding any cash received on account of accrued interest or accrued dividends), plus the minimum additional consideration, if any, to be received by the

Corporation (without taking into account potential antidilution adjustments) upon the conversion, exchange or exercise of any Common Stock Equivalents (the consideration in each case to be determined in the manner provided in Section 4(d)(i)(D)).

(2) In the event of any change in the number of shares of Common Stock deliverable or in the consideration payable to the Corporation upon conversion, exchange or exercise of any Common Stock Equivalents, other than a change resulting from the antidilution provisions thereof, the Conversion Price of Series A Preferred Stock, Series B Preferred Stock, Series BB Preferred Stock, Series BB-1 Preferred Stock, Series C Preferred Stock, Series C-1 Preferred Stock, Series C-2 Preferred Stock, Series C-3 Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, Series G Preferred Stock, Series G-1 Preferred Stock, Series H Preferred Stock, Series H-1 Preferred Stock, Series I Preferred Stock or Series I-1 Preferred Stock, to the extent in any way affected by or computed using such Common Stock Equivalents, 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 conversion, exchange or exercise of such Common Stock Equivalents.

(3) Upon the termination or expiration of the convertibility, exchangeability or exercisability of any Common Stock Equivalents, the Conversion Price of Series A Preferred Stock, Series B Preferred Stock, Series BB Preferred Stock Series BB-1 Preferred Stock, Series C Preferred Stock, Series C-1 Preferred Stock, Series C-2 Preferred Stock, Series C-3 Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, Series G Preferred Stock, Series G-1 Preferred Stock, Series H Preferred Stock, Series H-1 Preferred Stock, Series I Preferred Stock or Series I-1 Preferred Stock, to the extent in any way affected by or computed using such Common Stock Equivalents, shall be recomputed to reflect the issuance of only the number of shares of Common Stock (and Common Stock Equivalents that remain convertible, exchangeable or exercisable) actually issued upon the conversion, exchange or exercise of such Common Stock Equivalents.

(4) The number of shares of Common Stock deemed issued and the consideration deemed paid therefor pursuant to Section 4(d)(i)(E) shall be appropriately adjusted to reflect any change, termination or expiration of the type described in either Section 4(d)(i)(E)(2) or (3).

(F) No Increased Conversion Price. Notwithstanding any other provisions of this Section 4(d)(i), except to the limited extent provided for in Sections 4(d)(i)(E)(2) or (3), no adjustment of the Conversion Price for the Series A Preferred Stock, Series B Preferred Stock, Series BB Preferred Stock, Series BB-1 Preferred Stock, Series C Preferred Stock, Series C-1 Preferred Stock, Series C-2 Preferred Stock, Series C-3 Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, Series G Preferred Stock, Series G-1 Preferred Stock, Series H Preferred Stock, Series H-1 Preferred Stock, Series I Preferred Stock or Series I-1 Preferred

Stock pursuant to this Section 4(d)(i) shall have the effect of increasing the Conversion Price for the Series A Preferred Stock, Series B Preferred Stock, Series BB Preferred Stock, Series BB-1 Preferred Stock, Series C Preferred Stock, Series C-1 Preferred Stock, Series C-2 Preferred Stock, Series C-3 Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, Series G Preferred Stock, Series G-1 Preferred Stock, Series H Preferred Stock, Series H-1 Preferred Stock, Series I Preferred Stock or Series I-1 Preferred Stock above the Conversion Price for the Series A Preferred Stock, Series B Preferred Stock, Series BB Preferred Stock, Series BB-1 Preferred Stock, Series C Preferred Stock, Series C-1 Preferred Stock, Series C-2 Preferred Stock, Series C-3 Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, Series G Preferred Stock, Series G-1 Preferred Stock, Series H Preferred Stock, Series H-1 Preferred Stock, Series I Preferred Stock or Series I-1 Preferred Stock, respectively, in effect immediately prior to such adjustment.

(G) Multiple Closing Dates. In the event the Corporation shall issue on more than one date Additional Stock that are a part of one transaction or a series of related transactions and that would result in an adjustment to the Conversion Price of an applicable series of Preferred Stock pursuant to the terms of Section 4(d)(i) then, upon the final such issuance, the Conversion Price of such applicable series shall be readjusted to give effect to all such issuances as if they occurred on the date of the first such issuance (and without giving effect to any additional adjustments as a result of any such subsequent issuances within such period).

(ii) Adjustments for Subdivisions or Combinations of Common Stock. In the event the outstanding shares of Class B Common Stock shall be subdivided (by stock split, by payment of a stock dividend or otherwise), into a greater number of shares of Common Stock, the Conversion Price of each series of Preferred Stock that is convertible into Class B Common Stock in effect immediately prior to such subdivision shall, concurrently with the effectiveness of such subdivision, be proportionately decreased. In the event the outstanding shares of Class B Common Stock shall be combined (by reclassification or otherwise) into a lesser number of shares of Class B Common Stock, the Conversion Prices of each series of Preferred Stock that is convertible into Class B Common Stock in effect immediately prior to such combination shall, concurrently with the effectiveness of such combination, be proportionately increased.

(iii) Adjustments for Subdivisions or Combinations of Preferred Stock. In the event the outstanding shares of Preferred Stock or a series of Preferred Stock shall be subdivided (by stock split, by payment of a stock dividend or otherwise), into a greater number of shares of Preferred Stock, the Original Issue Price, the Dividend Rate and Liquidation Preference of the affected series of Preferred Stock in effect immediately prior to such subdivision shall, concurrently with the effectiveness of such subdivision, be proportionately decreased. In the event the outstanding shares of Preferred Stock or a series of Preferred Stock shall be combined (by reclassification or otherwise) into a lesser number of shares of Preferred Stock, the Original Issue Price, the Dividend Rate and Liquidation Preference of the affected series of Preferred Stock in effect immediately prior to such combination shall, concurrently with the effectiveness of such combination, be proportionately increased.

(e) Adjustments for Reclassification, Exchange and Substitution. Subject to Section 3 of this ARTICLE V, if the Common Stock issuable upon conversion of the Preferred Stock shall be changed into the same or a different number of shares of any other class or classes of stock, whether by capital reorganization, reclassification or otherwise (other than a subdivision or combination of shares provided for above), then, in any such event, in lieu of the number of shares of Common Stock which the holders would otherwise have been entitled to receive each holder of such Preferred Stock shall have the right thereafter to convert such shares of Preferred Stock into a number of shares of such other class or classes of stock which a holder of the number of shares of Common Stock deliverable upon conversion of such series of Preferred Stock immediately before that change would have been entitled to receive in such reorganization or reclassification, all subject to further adjustment as provided herein with respect to such other shares.

(f) Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the Conversion Price pursuant to this Section 4, subject to Section 4(d)(i)(G), the Corporation at its expense shall promptly compute such adjustment or readjustment in accordance with the terms hereof 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 Corporation 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 (i) such adjustments and readjustments, (ii) the Conversion Price at the time in effect and (iii) the number and class of shares of Common Stock and the amount, if any, of other property which at the time would be received upon the conversion of Preferred Stock.

(g) Notices of Record Date. In the event that this Corporation shall propose at any time:

(i) to declare any Distribution upon its Common Stock, whether in cash, property, stock or other securities, whether or not a regular cash dividend and whether or not out of earnings or earned surplus;

(ii) to effect any reclassification or recapitalization of its Common Stock outstanding involving a change in the Common Stock; or

(iii) to effect a Liquidation Transaction;

then, in connection with each such event, this Corporation shall send to the holders of the Preferred Stock at least 10 days' prior written notice of the date on which a record shall be taken for such Distribution (and specifying the date on which the holders of Common Stock shall be entitled thereto and, if applicable, the amount and character of such Distribution) or for determining rights to vote in respect of the matters referred to in (ii) and (iii) above.

Such written notice shall be given by first class mail (or express courier), postage prepaid, addressed to the holders of Preferred Stock at the address for each such holder as shown on the books of the Corporation and shall be deemed given on the date such notice is mailed.

The notice provisions set forth in this section may be shortened or waived prospectively or retrospectively by the consent or vote of the holders of a majority of the Preferred Stock, voting

as a single class and on an as-converted basis, with each of the Series B-1 Preferred Stock and Series C-4 Preferred Stock not subject to the Regulatory Voting Restriction for purposes of this specific vote.

(h) 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 the Preferred Stock, such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all then outstanding shares of the Preferred Stock; and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Preferred Stock, the Corporation will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purpose, including, without limitation, engaging in commercially reasonable efforts to obtain the requisite stockholders' approval of any necessary amendment to this Certificate of Incorporation, as amended or restated from time to time.

5. Voting.

(a) Restricted Class Voting. Except as otherwise expressly provided herein, including the Regulatory Voting Restriction, or as required by law, the holders of Preferred Stock and the holders of Common Stock shall vote together and not as separate classes. For purposes of this Section 5 only, the term "**Common Stock**" shall include Class A Common Stock, Class B Common Stock and FF Preferred Stock.

(b) No Series Voting. Other than as provided herein or required by law, there shall be no series voting.

(c) Preferred Stock. Except with respect to the election of directors which is governed by subsection 5(k), each holder of Preferred Stock shall be entitled to the same voting rights as the holders of shares of Class B Common Stock into which the shares of Preferred Stock held by such holder could be converted as of the record date, with each of the Series B-1 Preferred Stock and Series C-4 Preferred Stock being subject to the Regulatory Voting Restriction and treated as being convertible into Class B Common Stock for this purpose at the then-effective Conversion Price of (i) the Series B Preferred Stock, with respect to the Series B-1 Preferred Stock, and (ii) the Series C-2 Preferred Stock, with respect to the Series C-4 Preferred Stock, in each case notwithstanding the Regulatory Conversion Restriction. Except as expressly provided by this Restated Certificate or as provided by law, the holders of shares of the Preferred Stock shall be entitled to vote on all matters on which the Common Stock shall be entitled to vote. Holders of Preferred Stock shall be entitled to notice of any stockholders' meeting in accordance with the Bylaws of the Corporation. Fractional votes shall not, however, be permitted and any fractional voting rights resulting from the above formula (after aggregating all shares into which shares of Preferred Stock held by each holder could be converted), shall be disregarded.

(d) Adjustment in Authorized Stock. The number of authorized shares of any class or series of 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 in voting power of the

outstanding shares of the Preferred Stock and Common Stock (with the holders of shares of Preferred Stock voting together with the holders of shares of Common Stock entitled to vote thereon as a single class on an as-converted basis) without a vote of the holders of any class of Common Stock voting as a separate class, irrespective of the provisions of Section 242(b)(2) of the Delaware General Corporation Law.

(e) Common Stock; FF Preferred Stock. Each holder of shares of Class A Common Stock shall be entitled to one (1) vote for each share of Class A Common Stock held, each holder of shares of Class B Common Stock shall be entitled to ten (10) votes for each share of Class B Common Stock held and each holder of shares of FF Preferred Stock shall be entitled to ten (10) votes for each share of FF Preferred Stock held.

(f) Series A Preferred Stock Protective Provisions. So long as any shares of Series A Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or the Restated Certificate) the written consent or affirmative vote of the holders of at least a majority of the then outstanding shares of Series A Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect:

(i) sell or issue any securities of the Corporation having liquidation, dividend, conversion or voting rights senior to those of the Series A Preferred Stock;

(ii) effect a Liquidation Transaction in which the proceeds per share to the holders of Series A Preferred Stock is less than three (3) times the Original Issue Price of the Series A Preferred Stock; or

(iii) amend, alter or repeal this subsection 5(f).

(g) Series B Preferred Stock Protective Provisions. So long as any shares of Series B Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or the Restated Certificate) the written consent or affirmative vote of the holders of at least a majority of the then outstanding shares of Series B Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect:

(i) amend the Certificate of Incorporation or Bylaws of the Corporation if such amendment would alter or change the powers, preferences or special rights of the Series B Preferred Stock so as to affect them adversely in a manner different than other series of Preferred Stock; or

(ii) amend, alter or repeal this subsection 5(g).

(h) Series BB Preferred Stock Protective Provisions. So long as any shares of Series BB Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly

by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or the Restated Certificate) the written consent or affirmative vote of the holders of at least a majority of the then outstanding shares of Series BB Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect:

(i) amend the Certificate of Incorporation or Bylaws of the Corporation if such amendment would alter or change the powers, preferences or special rights of the Series BB Preferred Stock so as to affect them adversely in a manner different than other series of Preferred Stock; or

(ii) amend, alter or repeal this subsection 5(h).

(i) Series BB-1 Preferred Stock Protective Provisions. So long as any shares of Series BB-1 Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or the Restated Certificate) the written consent or affirmative vote of the holders of at least a majority of the then outstanding shares of Series BB-1 Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect:

(i) amend the Certificate of Incorporation or Bylaws of the Corporation if such amendment would alter or change the powers, preferences or special rights of the Series BB-1 Preferred Stock so as to affect them adversely in a manner different than other series of Preferred Stock; or

(ii) amend, alter or repeal this subsection 5(i).

(j) Preferred Stock Protective Provisions. So long as any shares of Preferred Stock are outstanding, subject to the Regulatory Voting Restriction, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or the Restated Certificate) the written consent or affirmative vote of the holders of at least a majority of the then outstanding shares of Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect:

(i) liquidate, dissolve or wind-up the business and affairs of the Corporation, or effect any merger or consolidation which does not constitute a Liquidation Transaction, or consent to any of the foregoing;

(ii) purchase or redeem (or permit any subsidiary to purchase or redeem) or pay or declare any dividend or make any distribution on, any shares of capital stock of the Corporation other than (v) any Excluded Redemption, (w) in connection with pledges of shares of capital stock pursuant to loan agreements with the Corporation, (x) redemptions of or dividends or distributions on the Preferred Stock as expressly authorized herein, (y) dividends or other

distributions payable on the Common Stock solely in the form of additional shares of Common Stock and (z) repurchases of stock from former employees, officers, directors, consultants or other persons who performed services for the Corporation or any subsidiary in connection with the cessation of such employment or service at the lower of the original purchase price or the then-current fair market value thereof;

(iii) create, or hold capital stock in, any subsidiary that is not wholly owned (either directly or through one or more other subsidiaries) by the Corporation unless approved by a majority of the Disinterested members of the Board of Directors, or sell, transfer or otherwise dispose of any capital stock of any direct or indirect subsidiary of the Corporation (in which a member of the Board of Directors has an economic interest not approved by the Disinterested members of such Board) (a “**Disinterested Subsidiary**”), or permit any direct or indirect subsidiary that is not a Disinterested Subsidiary to sell, lease, transfer, exclusively license or otherwise dispose (in a single transaction or series of related transactions) of all or substantially all of the assets of such subsidiary; provided that this subsection 5(j)(iii) shall not make inapplicable any consent or vote of the holders of Preferred Stock required under subsection 5(f)(ii) to the extent any sale, lease, transfer, exclusive license or other disposal (in a single transaction or series of related transactions) by a direct or indirect subsidiary of all or substantially all of the assets of such subsidiary would constitute a Liquidation Transaction;

(iv) enter into or be a party to any transaction with any director, officer, or employee of the Corporation or any “associate” (as defined in Rule 12b-2 promulgated under the Securities Exchange Act of 1934, as amended) of any such person, except for (i) transactions contemplated by agreements between the Corporation and any such person approved by a majority of the Disinterested members of the Corporation’s Board of Directors, or (ii) compensation agreements in the normal course of business as determined by the Board of Directors in good faith. For purposes of this subsection 5(j), “**Disinterested**” means having no direct or indirect economic interest in the matter upon which the vote of the Board of Directors is taken;

(v) amend the Certificate of Incorporation or Bylaws of the Corporation if such amendment would alter or change the powers, preferences or special rights of the Preferred Stock so as to affect them adversely; or

(vi) amend, alter or repeal this subsection 5(j).

(k) Election of Directors. The holders of record of the shares of Series A Preferred Stock, exclusively and as a separate class, shall be entitled to elect one (1) director of the Corporation (the “**Series A Director**”) and the holders of record of the shares of Common Stock, exclusively and as a separate class, shall be entitled to elect two (2) directors of the Corporation. Any director elected as provided in the preceding sentence may be removed without cause by, and only by, the affirmative vote of the holders of the shares of the class or series of capital 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. If the holders of shares of Series A Preferred Stock or Common Stock, as the case may be, fail to elect a sufficient number of directors to fill all directorships for which they are entitled to elect directors, voting exclusively and as a separate class, pursuant to the first sentence of this subsection 5(k), then any directorship not so filled shall remain vacant until such time as the holders of the Series

A Preferred Stock or Common Stock, as the case may be, elect a person to fill such directorship by vote or written consent in lieu of a meeting; and no such directorship may be filled by stockholders of the Corporation other than by the stockholders of the Corporation that are entitled to elect a person to fill such directorship, voting exclusively and as a separate class. The holders of record of the shares of Common Stock and of any other class or series of voting stock (including the Preferred Stock, but excluding the Series G-1 Preferred Stock, the Series H-1 Preferred Stock and the Series I-1 Preferred Stock), exclusively and voting together as a single class, shall be entitled to elect the balance of the total number of directors of the Corporation, with the Series B-1 Preferred Stock and the Series C-4 Preferred Stock subject to the Regulatory Voting Restriction. At any meeting held for the purpose of electing a director, the presence in person or by proxy of the holders of a majority of the outstanding shares of the class or series entitled to elect such director shall constitute a quorum for the purpose of electing such director. Except as otherwise provided in this subsection 5(k), a vacancy in any directorship filled by the holders of any class or series shall be filled only by vote or written consent in lieu of a meeting of the holders of such class or series (with the Series B-1 Preferred Stock and the Series C-4 Preferred Stock subject to the Regulatory Voting Restriction) or by any remaining director or directors elected by the holders of such class or series pursuant to this subsection 5(k). For the avoidance of doubt, the Series G-1 Preferred Stock, the Series H-1 Preferred Stock and the Series I-1 Preferred Stock shall not have the right to vote for any directors under this subsection 5(k) or otherwise, including under any other provision of this Restated Certificate.

(l) Series B-1 Preferred Stock Protective Provisions. So long as any shares of Series B-1 Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or the Restated Certificate) the written consent or affirmative vote of the holders of at least a majority of the then outstanding shares of Series B-1 Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class (with the Series B-1 Preferred Stock not subject to the Regulatory Voting Restriction for purposes of such vote or written consent), and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect:

(i) amend the Certificate of Incorporation or Bylaws of the Corporation if such amendment would alter or change the powers, preferences or special rights of the Series B-1 Preferred Stock so as to affect them adversely in a manner different than other series of Preferred Stock;

(ii) amend, alter, repeal or waive any of the protective provisions set forth in this subsection 5(l);

(iii) amend, modify or waive (A) any of the terms set forth in ARTICLE XIII below or any of the terms set forth in subsection 5(m) below, or (B) any other provision of this Restated Certificate intended to address the regulatory status of the initial or any subsequent holder of shares of Series B-1 Preferred Stock; or

(iv) increase or decrease the number of authorized shares of Series B-1 Preferred Stock.

In no event shall the holders of Series B-1 Preferred Stock be entitled to vote, or act by written consent, on any matter as a single “class” of “voting securities” as such terms are interpreted under the BHCA (as defined in ARTICLE XIII of this Restated Certificate). For the avoidance of doubt, the foregoing provisions in this subsection 5(l) shall apply with respect to the shares of Series B-1 Preferred Stock after a Deemed Optional Conversion or Deemed Automatic Conversion.

(m) Regulatory Voting Restriction. Notwithstanding the stated or statutory voting rights of holders of shares of each of Series B-1 Preferred Stock and Series C-4 Preferred Stock and except as expressly provided otherwise herein, in no event shall a Regulated Holder and its Transferees (each, as defined below), collectively, be entitled to vote shares representing more than 4.99% of the voting power of all shares entitled to vote on any matter (including matters with respect to which such holders are entitled to provide their consent), including matters with respect to which:

- (i) the Series B Preferred Stock and the Series B-1 Preferred Stock vote together as a single class;
- (ii) the Series C Preferred Stock, the Series C-1 Preferred Stock, the Series C-2 Preferred Stock, the Series C-3 Preferred Stock (or any combination thereof) and the Series C-4 Preferred Stock vote together as a single class;
- (iii) the Preferred Stock votes together as a single class; or
- (iv) the Preferred Stock votes with shares of Common Stock as a single class on an as-converted basis;

(such voting rights to be allocated pro rata among the Regulated Holder and its Transferees based on the number of shares of Series B-1 Preferred Stock or Series C-4 Preferred Stock, as applicable, held by each such holder); provided, however, that, if there are no shares of Series B Preferred Stock or Series C-4 Preferred Stock, as applicable, outstanding, the ownership of shares of Series B-1 Preferred Stock or Series C-4 Preferred Stock, as applicable, will not convey to the holder thereof any right to vote for matters on which shares of Series B Preferred Stock and Series B-1 Preferred Stock are entitled to vote as a single class or on which shares of the Series C Preferred Stock, the Series C-1 Preferred Stock, the Series C-2 Preferred Stock, the Series C-3 Preferred Stock (or any combination thereof) and the Series C-4 Preferred Stock are entitled to vote as a single class, as applicable, and in the event there are no shares of Preferred Stock outstanding other than the Series B-1 Preferred Stock or the Series C-4 Preferred Stock, the ownership of shares of Series B-1 Preferred Stock or Series C-4 Preferred Stock, as applicable, will not convey to the holder thereof any right to vote for matters on which shares of Preferred Stock are entitled to vote as a single class; provided, further, that the Regulatory Voting Restriction shall not apply to matters requiring approval of the holders of shares of Series B-1 Preferred Stock pursuant to subsection 5(l) above or approval of the holders of shares of Series C-4 Preferred Stock pursuant to subsection 5(r) below or as otherwise provided expressly herein. The restrictions described in this subsection 5(m) are referred to herein as the **“Regulatory Voting Restrictions.”**

(n) Series C Preferred Stock Protective Provisions. So long as any shares of Series C Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or the Restated Certificate) the written consent or affirmative vote of the holders of at least a majority of the then outstanding shares of Series C Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect:

(i) amend the Certificate of Incorporation or Bylaws of the Corporation if such amendment would alter or change the powers, preferences or special rights of the Series C Preferred Stock so as to affect them adversely in a manner different than other series of Preferred Stock; or

(ii) amend, alter or repeal this subsection 5(n).

(o) Series C-1 Preferred Stock Protective Provisions. So long as any shares of Series C-1 Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or the Restated Certificate) the written consent or affirmative vote of the holders of at least a majority of the then outstanding shares of Series C-1 Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect:

(i) amend the Certificate of Incorporation or Bylaws of the Corporation if such amendment would alter or change the powers, preferences or special rights of the Series C-1 Preferred Stock so as to affect them adversely in a manner different than other series of Preferred Stock; or

(ii) amend, alter or repeal this subsection 5(o).

(p) Series C-2 Preferred Stock Protective Provisions. So long as any shares of Series C-2 Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or the Restated Certificate) the written consent or affirmative vote of the holders of at least a majority of the then outstanding shares of Series C-2 Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect:

(i) amend the Certificate of Incorporation or Bylaws of the Corporation if such amendment would alter or change the powers, preferences or special rights of the Series C-2 Preferred Stock so as to affect them adversely in a manner different than other series of Preferred Stock; or

(ii) amend, alter or repeal this subsection 5(p).

(q) Series C-3 Preferred Stock Protective Provisions. So long as any shares of Series C-3 Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or the Restated Certificate) the written consent or affirmative vote of the holders of at least a majority of the then outstanding shares of Series C-3 Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect:

- (i) amend the Certificate of Incorporation or Bylaws of the Corporation if such amendment would alter or change the powers, preferences or special rights of the Series C-3 Preferred Stock so as to affect them adversely in a manner different than other series of Preferred Stock; or
- (ii) amend, alter or repeal this subsection 5(q).

(r) Series C-4 Preferred Stock Protective Provisions. So long as any shares of Series C-4 Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or the Restated Certificate) the written consent or affirmative vote of the holders of at least a majority of the then outstanding shares of Series C-4 Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class (with the Series C-4 Preferred Stock not subject to the Regulatory Voting Restriction for purposes of such vote or written consent), and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect:

- (i) amend the Certificate of Incorporation or Bylaws of the Corporation if such amendment would alter or change the powers, preferences or special rights of the Series C-4 Preferred Stock so as to affect them adversely in a manner different than other series of Preferred Stock;
- (ii) amend, alter, repeal or waive any of the protective provisions set forth in this subsection 5(r);
- (iii) amend, modify or waive (A) any of the terms set forth in ARTICLE XIII below or any of the terms set forth in subsection 5(m) above, or (B) any other provision of this Restated Certificate intended to address the regulatory status of the initial or any subsequent holder of shares of Series C-4 Preferred Stock; or
- (iv) increase or decrease the number of authorized shares of Series C-4 Preferred Stock.

In no event shall the holders of Series C-4 Preferred Stock be entitled to vote, or act by written consent, on any matter as a single “class” of “voting securities” as such terms are interpreted under the BHCA (as defined in ARTICLE XIII of this Restated Certificate). For the avoidance of doubt, the foregoing provisions in this subsection 5(r) shall apply with respect to the shares of Series C-4 Preferred Stock after a Deemed Optional Conversion or Deemed Automatic Conversion.

(s) Series D Preferred Stock Protective Provisions. So long as any shares of Series D Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or the Restated Certificate) the written consent or affirmative vote of the holders of at least 70% of the then outstanding shares of Series D Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect:

(i) amend the Certificate of Incorporation or Bylaws of the Corporation if such amendment would alter or change the powers, preferences or special rights of the Series D Preferred Stock so as to affect them adversely in a manner different than other series of Preferred Stock; or

(ii) amend, alter or repeal this subsection 5(s).

(t) Series E Preferred Stock Protective Provisions. So long as any shares of Series E Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or the Restated Certificate) the written consent or affirmative vote of the holders of at least a majority of the then outstanding shares of Series E Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect:

(i) amend the Certificate of Incorporation or Bylaws of the Corporation if such amendment would alter or change the powers, preferences or special rights of the Series E Preferred Stock so as to affect them adversely in a manner different than other series of Preferred Stock;

(ii) amend, alter or repeal this subsection 5(t).

(u) Series F Preferred Stock Protective Provisions. So long as any shares of Series F Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or the Restated Certificate) the written consent or affirmative vote of the holders of at least a majority of the then outstanding shares of Series F Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect:

(i) amend the Certificate of Incorporation or Bylaws of the Corporation if such amendment would alter or change the powers, preferences or special rights of the Series F Preferred Stock so as to affect them adversely in a manner different than other series of Preferred Stock;

(ii) amend, alter or repeal this subsection 5(u).

(v) Series G Preferred Stock Protective Provisions. So long as any shares of Series G Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or the Restated Certificate) the written consent or affirmative vote of the holders of at least a majority of the then outstanding shares of Series G Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect:

(i) amend the Certificate of Incorporation or Bylaws of the Corporation if such amendment would alter or change the powers, preferences or special rights of the Series G Preferred Stock so as to affect them adversely in a manner different than other series of Preferred Stock;

(ii) amend, alter or repeal this subsection 5(v).

(w) Series G-1 Preferred Stock Protective Provisions. So long as any shares of Series G-1 Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or the Restated Certificate) the written consent or affirmative vote of the holders of at least a majority of the then outstanding shares of Series G-1 Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect:

(i) amend the Certificate of Incorporation or Bylaws of the Corporation if such amendment would alter or change the powers, preferences or special rights of the Series G-1 Preferred Stock so as to affect them adversely in a manner different than other series of Preferred Stock;

(ii) amend, alter or repeal this subsection 5(w).

(x) Series H Preferred Stock Protective Provisions. So long as any shares of Series H Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or the Restated Certificate) the written consent or affirmative vote of the holders of at least a majority of the then outstanding shares of Series H Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect:

(i) amend the Certificate of Incorporation or Bylaws of the Corporation if such amendment would alter or change the powers, preferences or special rights of the Series H Preferred Stock so as to affect them adversely in a manner different than other series of Preferred Stock;

(ii) amend, alter or repeal this subsection 5(x).

(y) Series H-1 Preferred Stock Protective Provisions. So long as any shares of Series H-1 Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or the Restated Certificate) the written consent or affirmative vote of the holders of at least a majority of the then outstanding shares of Series H-1 Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect:

- (i) amend the Certificate of Incorporation or Bylaws of the Corporation if such amendment would alter or change the powers, preferences or special rights of the Series H-1 Preferred Stock so as to affect them adversely in a manner different than other series of Preferred Stock;
- (ii) amend, alter or repeal this subsection 5(y).

(z) Series I Preferred Stock Protective Provisions. With the exception of any action or waiver pursuant to (x) the final sentence of subsection 3(d), (y) clause (ii) of subsection 4(b)(i) or (z) subsection 4(d)(i)(B)(9) (each, a “**Series I Requisite Holder Subsection**”) with respect to the Series I Preferred Stock via an affirmative vote of the Series I Requisite Holders pursuant to the proviso set forth in such Series I Requisite Holder Subsection or an amendment to the proviso set forth in any Series I Requisite Holder Subsection by an affirmative vote of the Series I Requisite Holders, so long as any shares of Series I Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or the Restated Certificate) the written consent or affirmative vote of the holders of at least a majority of the then outstanding shares of Series I Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect:

- (i) amend the Certificate of Incorporation or Bylaws of the Corporation if such amendment would alter or change the powers, preferences or special rights of the Series I Preferred Stock so as to affect them adversely in a manner different than other series of Preferred Stock;
- (ii) amend, alter or repeal this subsection 5(z).

(aa) Series I-1 Preferred Stock Protective Provisions. With the exception of any action or waiver pursuant to any Series I Requisite Holder Subsection with respect to the Series I-1 Preferred Stock via an affirmative vote of the Series I Requisite Holders pursuant to the proviso set forth in such Series I Requisite Holder Subsection or an amendment to the proviso set forth in any Series I Requisite Holder Subsection by an affirmative vote of the Series I Requisite Holders, so long as any shares of Series I-1 Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or the Restated Certificate) the written consent or affirmative vote of the holders of at least a majority of the then outstanding shares of Series I-1 Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the

case may be) separately as a class, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect:

(i) amend the Certificate of Incorporation or Bylaws of the Corporation if such amendment would alter or change the powers, preferences or special rights of the Series I-1 Preferred Stock so as to affect them adversely in a manner different than other series of Preferred Stock;

(ii) amend, alter or repeal this subsection 5(aa).

(bb) Series I Requisite Holder Protective Provisions. So long as any shares of Series I Preferred Stock or Series I-1 Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or the Restated Certificate) the written consent or affirmative vote of the Series I Requisite Holders, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect:

- (i) amend the proviso set forth in the final sentence of subsection 3(d);
- (ii) amend the proviso set forth in clause (ii) of subsection 4(b)(i);
- (iii) amend the proviso set forth in subsection 4(d)(i)(B)(9);
- (iv) amend, alter or repeal this subsection 5(bb).

6. Reissuance of Preferred Stock or FF Preferred Stock. In the event that any shares of Preferred Stock or FF Preferred Stock shall be converted pursuant to Section 4 or otherwise repurchased by the Corporation, the shares so converted, redeemed or repurchased shall be cancelled and shall not be issuable by this Corporation.

7. Redemption. No class or series of stock is mandatorily redeemable.

8. Notices. Any notice required by the provisions of this ARTICLE V to be given to the holders of Preferred Stock shall be deemed given if deposited in the United States mail, postage prepaid, and addressed to each holder of record at such holder's address appearing on the books of the Corporation.

9. Administration. The Corporation may, from time to time, establish such policies and procedures, not in violation of applicable law or the other provisions of this Restated Certificate, relating to the conversion of the Class B Common Stock into Class A Common Stock as provided in ARTICLE V, Section 4 and the dual class common stock structure provided for in this Restated Certificate, including, without limitation, the issuance of stock certificates (or, as to uncertificated shares, notices) in connection with any such conversion, as it may deem necessary or advisable. If the Corporation has reason to believe that a Transfer giving rise to a conversion of shares of Class B Common Stock into Class A Common Stock has occurred but has not theretofore been made on the books of the Corporation, the Corporation may request that the holder

of such shares furnish affidavits or other evidence to the Corporation as it reasonably deems necessary to determine whether a conversion of shares of Class B Common Stock into Class A Common Stock has occurred, and if such holder does not within ten (10) days after the date of such request furnish sufficient evidence to the Corporation (in the manner provided in the request) to enable the Corporation to determine that no such conversion has occurred, any such shares of Class B Common Stock, to the extent not previously converted, shall be immediately and automatically converted into shares of Class A Common Stock and the same shall thereupon be registered on the books and records of the Corporation. In connection with any action of stockholders taken at a meeting or by written consent, the stock ledger of the Corporation shall be the exclusive evidence of the stockholders entitled to vote in person or by proxy at any meeting of stockholders or in connection with any written consent and the classes and series of shares held by each such stockholder and the number of shares of each class held by such stockholder. Each share of Class B Common Stock that is converted pursuant to ARTICLE V, Section 4 shall be retired by the Corporation and shall not be reissued.

10. Equal Status. Except as expressly set forth in this ARTICLE V, each class of Common Stock shall have the same rights and powers of, rank equally to, share ratably with, and be identical in all respects and as to all matters to one another. If the Corporation in any manner subdivides or combines the outstanding shares of any class of Common Stock, then the outstanding shares of the other classes of Common Stock will be subdivided or combined in the same proportion and manner.

ARTICLE VI

The Corporation is to have perpetual existence.

ARTICLE VII

Elections of directors need not be by written ballot unless the Bylaws of the Corporation shall so provide.

ARTICLE VIII

Unless otherwise set forth herein, the number of directors which constitute the Board of Directors shall be designated in the Bylaws of the Corporation.

ARTICLE IX

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

ARTICLE X

1. To the fullest extent permitted by the Delaware General Corporation Law as the same exists or as may hereafter be amended, a director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for a breach of fiduciary duty as a director. If the Delaware General Corporation Law is amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of

the Corporation shall be eliminated or limited to the fullest extent permitted by the Delaware General Corporation Law, as so amended.

2. The Corporation shall have the power to indemnify, to the extent permitted by the Delaware General Corporation Law, as it presently exists or may hereafter be amended from time to time, any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (a “**Proceeding**”) by reason of the fact that he or she is or was a director, officer, employee or agent of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, against expenses (including attorneys’ fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with any such Proceeding.

3. Neither any amendment nor repeal of this ARTICLE X, nor the adoption of any provision of this Corporation’s Certificate of Incorporation inconsistent with this ARTICLE X, shall eliminate or reduce the effect of this ARTICLE X, in respect of any matter occurring, or any action or proceeding accruing or arising or that, but for this ARTICLE X, would accrue or arise, prior to such amendment, repeal or adoption of an inconsistent provision.

ARTICLE XI

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

ARTICLE XII

The Corporation hereby renounces any interest or expectancy of the Corporation in, or in being offered an opportunity to participate in, or in being informed about, an Excluded Opportunity. An “**Excluded Opportunity**” is any matter, transaction or interest that is presented to, or acquired, created or developed by, or which otherwise comes into the possession of any holder of Preferred Stock or any affiliate, partner, member, director, stockholder, employee, agent or other related person of any such holder, other than someone who is an employee of the Corporation or any of its subsidiaries (collectively, “**Covered Persons**”), unless such matter, transaction or interest is presented to, or acquired, created or developed by, or otherwise comes into the possession of, a Covered Person expressly and exclusively in such Covered Person’s capacity as a director of the Corporation.

ARTICLE XIII

A. Definitions. As used herein, the following terms will have the meanings set forth below.

1. “**Deemed Converted**” means, with respect to any shares of Regulated Securities, such shares will no longer be entitled to any rights that are not also applicable to shares of Class B Common Stock, including dividend and liquidation preference, and such holder of

Regulated Securities will be deemed to have forever and finally waived all such rights and will be treated for all purposes as if such shares of Regulated Securities had been converted (without actual conversion) into Class B Common Stock, at the then applicable conversion rate of the applicable Non-Regulated Preferred Stock, as adjusted for any stock splits, stock dividends, combinations, subdivisions, recapitalizations or the like with respect to the Class B Common Stock occurring after such Deemed Optional Conversion or Deemed Automatic Conversion, as applicable; provided, however, that the rights set forth in ARTICLE V, Sections 5(l), 5(m) and 5(r) of this Restated Certificate, and ARTICLE XIII of this Restated Certificate, shall continue to apply to shares of Series B-1 Preferred Stock and Series C-4 Preferred Stock, as applicable; provided further that shares of Regulated Securities that have been Deemed Converted will not be entitled to vote on any matters for which shares of Class B Common Stock, and not shares of Regulated Securities, were entitled to vote prior to such Deemed Conversion.

2. **“Non-Regulated Preferred Stock”** shall mean that series of Preferred Stock that is substantially the same, with respect to economic and voting rights, as a series of Regulated Securities then-held by a Regulated Holder (other than any protections set forth in such series of Regulated Securities with respect to any regulatory requirements specifically applicable to the Regulated Holder, including but not limited to the Regulatory Voting Restriction, the Regulatory Conversion Restriction and the other restrictions and rights set forth in this ARTICLE XIII). The Series B Preferred Stock shall be the Non-Regulated Preferred Stock with respect to the Series B-1 Preferred Stock and the Series C-2 Preferred Stock shall be the Non-Regulated Preferred Stock with respect to the Series C-4 Preferred Stock.

3. **“Permitted Regulatory Transferee”** means a person unaffiliated with a Regulated Holder who acquires shares of capital stock of the Corporation from a Regulated Holder or its BHCA Transferees in any of the following transfers (each a **“Permitted Regulatory Transfer”**):

- (a) a widespread public distribution;
- (b) a transfer to the Corporation;
- (c) a transfer in which no transferee (or group of associated transferees) would receive 2% or more of the outstanding securities of any class of voting securities of the Corporation; or
- (d) a transfer to a transferee who would control more than 50% of every class of voting securities of the Corporation without giving effect to the shares of the capital stock of the Corporation transferred by a Regulated Holder and its BHCA Transferees.

4. A **“Regulated Holder”** means a bank holding company subject to the provisions of the Bank Holding Company Act of 1956, as amended, and as implemented by the Board of Governors of the Federal Reserve System, whether pursuant to regulation or interpretation (the **“BHCA”**), together with its affiliates (as defined in Regulation Y (12 C.F.R. Part 225)).

5. **“Regulated Securities”** means the Series B-1 Preferred Stock and the Series C-4 Preferred Stock.

6. A **“Transferee”** means a party to whom a Regulated Holder transfers shares of Series B-1 Preferred Stock or Series C-4 Preferred Stock and the transferees of such party (in each case, other than Permitted Regulatory Transferees).

B. The Corporation shall be bound by the following restrictions (each, a **“BHCA Regulatory Restriction”**):

1. The Corporation shall not directly or indirectly, repurchase, redeem, retire or otherwise acquire any of the Corporation’s capital securities, or take any other action (including effecting a public offering in which any of outstanding shares of Preferred Stock are converted into Common Stock), if, as a result, the Regulated Holder and its Transferees would own or control, or be deemed to own or control, collectively, greater than (i) 4.99% of the voting power of any class of voting securities of the Corporation or (ii) 33% of the total equity of the Corporation (in each case, as such terms used in the preceding sentence are defined and used, and as such percentages are calculated, under the BHCA); *provided, however,* that this restriction shall not apply to any repurchase, redemption, retirement or other acquisition transaction effected by the Corporation and offered to each holder of Preferred Stock if the Regulated Holder (x) receives at least ten (10) business days’ prior written notice of such transaction and (y) is offered the opportunity to sell its shares of Series B-1 Preferred Stock or Series C-4 Preferred Stock, as applicable, on a pro rata basis with the other holders of Preferred Stock at a price per share equal to the greater of (i) the highest price offered to a holder of Series B Preferred Stock, in the case of the Series B-1 Preferred Stock, or the highest price offered to a holder of Series C-2 Preferred Stock, in the case of the Series C-4 Preferred Stock, and (ii) the Series B-1 Original Issue Price or Series C-4 Original Issue Price, as applicable, plus all declared but unpaid dividends thereon; *provided further,* that in such transaction the Regulated Holder is offered an opportunity to sell that number of shares as is sufficient to allow the Regulated Holder to remain below the foregoing equity limits.

2. If the Corporation declares a Distribution payable in any form of property other than in cash, each holder of a share of Series B-1 Preferred Stock and/or Series C-4 Preferred Stock shall be entitled to receive, at its election, in lieu of such property, a cash payment equal to the fair market value of the property that such holder would have been entitled to receive upon such Distribution, as reasonably determined by the Board of Directors of the Corporation in good faith.

C. In the event of a breach of any BHCA Regulatory Restriction or Part D of this ARTICLE XIII or if a Regulated Holder is unable to transfer pursuant to Part D of this ARTICLE XIII all or any part of the shares of the Corporation’s stock then held by it because such transfer is not permitted pursuant to applicable securities laws, the Regulated Holder may exercise any remedies available to it against the Corporation, including requiring the Corporation to repurchase the relevant portion of the shares held by the Regulated Holder necessary to give effect to Part B or D of this ARTICLE XIII, as applicable, at a per share price equal to the then current fair market value of (i) in the case of the Series B-1 Preferred Stock, if shares of Series B Preferred Stock are then-outstanding, a share of Series B Preferred Stock (and not the fair market value of a share of

Series B-1 Preferred Stock) and, in the case of the Series C-4 Preferred Stock, if shares of Series C-2 Preferred Stock are then-outstanding, a share of Series C-2 Preferred Stock (and not the fair market value of a share of Series C-4 Preferred Stock), each as reasonably determined by the Board of Directors of the Corporation in good faith, or (ii) in the case of the Series B-1 Preferred Stock, if no shares of Series B Preferred Stock are then-outstanding, a share of Series B-1 Preferred Stock and, in the case of the Series C-4 Preferred Stock, if no shares of Series C-2 Preferred Stock are then-outstanding, a share of Series C-4 Preferred Stock, each as reasonably determined by the Board of Directors of the Corporation in good faith with such determination being made assuming that (x) the rights, preferences and privileges applicable to the Series B Preferred Stock (and not the Series B-1 Preferred Stock), in the case of the Series B-1 Preferred Stock, that are set forth herein, as in effect as of the Series B Original Issue Date, are the rights, preferences and privileges of the Series B-1 Preferred Stock, and (y) the rights, preferences and privileges applicable to the Series C-2 Preferred Stock (and not the Series C-4 Preferred Stock), in the case of the Series C-4 Preferred Stock, that are set forth herein, as in effect as of the Series C-2 Original Issue Date, are the rights, preferences and privileges of the Series C-4 Preferred Stock.

D. If (w) a Regulated Holder is deemed to be in control of the Corporation (as “control” is used for purposes of the BHCA), (x) a Regulated Holder believes in good faith that it may be deemed to be in control of the Corporation (as “control” is used for purposes of the BHCA) or that it is not permitted to hold all or part of its shares of the Corporation’s stock or, if applicable, its other securities of the Corporation under the relevant banking laws, regulations and agency interpretations and guidance, (y) all of the shares of Preferred Stock, other than the Series B-1 Preferred Stock and Series C-4 Preferred Stock, have been converted into Common Stock pursuant to an Automatic Conversion Event and the holders thereof, other than such Regulated Holder, collectively hold less than 70% of the Common Stock issued or issuable upon such conversion that such holders held on the Series B-1 Original Issue Date or the Series C-4 Original Issue Date, as applicable (each as adjusted for any stock splits or combinations, stock dividends, reclassifications, exchanges, recapitalizations or the like) or (z) the Regulated Holder learns of any activities directly or indirectly by or on behalf of the Corporation, its affiliates or any of their respective officers, directors or employees, or anyone for whose acts or defaults any of the foregoing may be liable, that may constitute or give rise to a violation of applicable anti-bribery or anti-corruption laws by the Corporation, then (i) the Corporation will cooperate in good faith to provide the Regulated Holder with information relevant to its determination under clause (w), (x), (y) or (z), (ii) the Regulated Holder shall be permitted to sell or otherwise transfer its shares of Series B-1 Preferred Stock or Series C-4 Preferred Stock, as applicable, or any other securities of the Corporation then held by the Regulated Holder (subject to applicable securities laws) and (iii) the Corporation will use its commercially reasonable efforts to facilitate such sale or transfer in good faith (which shall include, at a minimum, making management available to prospective buyers and providing customary due diligence material, subject to a customary confidentiality agreement).

E. To the extent further requested, the Corporation will (i) cooperate in good faith with a Regulated Holder in order to avoid the Regulated Holder being deemed to control the Corporation or any successor or acquiring corporation or entity (as “control” is used for purposes of the BHCA) as a result of any arrangements with any Regulated Holder, (ii) avoid any circumstances under which the Regulated Holder would not be permitted to hold all or a portion of its shares of Series B-1 Preferred Stock or Series C-4 Preferred Stock, as applicable, any shares of capital stock of the Corporation issuable upon conversion thereof, or any security of (w) the

Corporation, (x) any successor thereto, (y) any acquiring corporation or (z) any entity the securities of which have been issued in respect of or exchange for any such shares of Series B-1 Preferred Stock or Series C-4 Preferred Stock, as applicable, or such capital stock, then held by the Regulated Holder under the relevant banking laws, regulations and agency interpretations and guidance and (iii) take commercially reasonable efforts to provide that any security of the Corporation or of any successor or acquiring corporation or entity issued to a Regulated Holder in any transaction to which the Corporation is a party contains terms and characteristics that provide comparable assurance of compliance with any regulatory requirements applicable to the Regulated Holder as are provided by the Series B-1 Preferred Stock or by the Series C-4 Preferred Stock, as applicable.

F. Restrictions on Conversion of the Regulated Securities.

1. Notwithstanding Section 4 or any other provision in this Restated Certificate, except as provided in Subsections F(2) and F(3) below, shares of Regulated Securities will not be convertible into Common Stock in the hands of a Regulated Holder or its BHCA Transferees (such conversion restriction, the “**Regulatory Conversion Restriction**”).

2. Upon consummation of a Permitted Regulatory Transfer, each share of Regulated Securities so transferred in such a Permitted Regulatory Transfer will automatically be converted into (1) if such Permitted Regulatory Transfer occurs prior to a Deemed Conversion, one (1) fully paid and nonassessable share of Non-Regulated Preferred Stock, as adjusted for any stock splits, stock dividends, combinations, subdivisions, recapitalizations or the like with respect to the Non-Regulated Preferred Stock; or (2) if such Permitted Regulatory Transfer occurs on or subsequent to a Deemed Conversion, such number of fully paid and nonassessable shares of Class B Common Stock as is determined by dividing the Original Issue Price of such shares of Regulated Securities by the then effective Conversion Price of the Non-Regulated Preferred Stock.

3. If any of the events described in Section 4(b)(i) of ARTICLE V of this Restated Certificate occurs, then, immediately prior to and subject to the consummation of such event, all outstanding shares of Regulated Securities will automatically be converted into shares of Class B Common Stock if, and only if, after giving effect to such conversion, a Regulated Holder and its BHCA Transferees would not own or control, or be deemed to own or control, collectively, greater than (i) 4.99% of the voting power of any class of voting securities or (ii) 33% of the total equity of the Corporation. Any shares of Regulated Securities that are convertible into shares of Class B Common Stock pursuant to this Section F(3) will be convertible into such number of fully paid and nonassessable shares of Class B Common Stock as is determined by dividing the Original Issue Price, as defined in ARTICLE V hereof, of such shares of the Regulated Securities by the then effective Conversion Price, as defined in ARTICLE V hereof, of the Non-Regulated Preferred Stock. Automatic conversion of shares of the Regulated Securities shall be effective without any further action on the part of the holders of such shares and shall be effective whether or not the certificates for such shares are surrendered to the Corporation or its transfer agent.

4. If any of the events described in Section 4(b)(i) of this Restated Certificate occurs and any shares of the Regulated Securities are not able to convert pursuant to Section F(3) above, then such shares of the Regulated Securities will be Deemed Converted at the same time that all shares of Non-Regulated Preferred Stock have been automatically converted pursuant to such Section 4(b)(i) (a “**Deemed Automatic Conversion**”).

5. Upon a notice to the Corporation from the holder of Regulated Securities that it intends to effect an optional Deemed Conversion (a “**Deemed Conversion Notice**”), the Regulated Securities held by it will be Deemed Converted at the same time that the Deemed Conversion Notice was given (a “**Deemed Optional Conversion**” and, together with a Deemed Automatic Conversion, each a “**Deemed Conversion**”).

G. In the event of any conflict with any provision of this Restated Certificate, the terms of this ARTICLE XIII shall prevail.

ARTICLE XIV

To the fullest extent permitted by law, no director of the Corporation shall be personally liable for monetary damages for breach of fiduciary duty as a director. Without limiting the effect of the preceding sentence, if the Delaware General Corporation Law is hereafter amended to authorize the further elimination or limitation of the liability of a director, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the Delaware General Corporation Law, as so amended.

To the fullest extent permitted by applicable law, this Corporation is authorized to provide indemnification of (and advancement of expenses to) agents of this Corporation (and any other persons to which Delaware General Corporation Law permits this Corporation to provide indemnification) through Bylaw provisions, agreements with such agents or other persons, vote of stockholders or disinterested directors or otherwise, in excess of the indemnification and advancement otherwise permitted by Section 145 of the Delaware General Corporation Law, subject only to limits created by applicable Delaware General Corporation Law (statutory or non-statutory), with respect to actions for breach of duty to this Corporation, its stockholders, and others.

Neither any amendment nor repeal of this ARTICLE XIV, nor the adoption of any provision of this Restated Certificate inconsistent with this ARTICLE XIV, shall eliminate, reduce or otherwise adversely affect any limitation on the personal liability of a director of the Corporation existing at the time of such amendment, repeal or adoption of such an inconsistent provision.

ARTICLE XV

Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall be the sole and exclusive forum for (A) any derivative action or proceeding brought on behalf of the Corporation, (B) any action or proceeding asserting a claim of breach of a fiduciary duty owed by any director, officer, employee or agent of the Corporation to the Corporation or the Corporation’s stockholders, (C) any action or proceeding asserting a claim against the Corporation arising pursuant to any provision of the Delaware General Corporation Law or this Restated Certificate or the Bylaws, or (D) any action or proceeding asserting a claim governed by the internal affairs doctrine, in each case subject to said Court of Chancery having personal jurisdiction over the indispensable parties named as defendants therein. This ARTICLE XV shall not apply to suits brought to enforce a duty or liability created by the Securities Exchange Act of 1934, as amended, or any other claim for which the federal courts have exclusive jurisdiction.

Unless the Corporation consents in writing to the selection of an alternative forum, the federal district courts of the United States of America shall be the exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act of 1933, as amended, subject to and contingent upon a final adjudication in the State of Delaware of the enforceability of such exclusive forum provision.

Any person or entity purchasing or otherwise acquiring any interest in shares of capital stock of the Corporation shall be deemed to have notice of and to have consented to the provisions of this ARTICLE XV.

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