

PATENT ASSIGNMENT

Electronic Version v1.1

Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	CHANGE OF NAME
CONVEYING PARTY DATA	
Name	Execution Date
LIGHTSPEED SEMICONDUCTOR CORPORATION	02/08/2006
RECEIVING PARTY DATA	
Name:	Lightspeed Logic, Inc.
Street Address:	3255 Scott Blvd., Ste. 2-102
City:	Santa Clara
State/Country:	CALIFORNIA
Postal Code:	95054
PROPERTY NUMBERS Total: 2	
Property Type	Number
Patent Number:	6613611
Patent Number:	6769109
CORRESPONDENCE DATA	
Fax Number:	(512)869-8268
<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>	
Phone:	512-869-2068
Email:	Bennett@patentventures.com
Correspondent Name:	Walstein Bennett Smith III
Address Line 1:	P.O. Box 1668
Address Line 4:	Georgetown, TEXAS 78627
ATTORNEY DOCKET NUMBER:	LS
NAME OF SUBMITTER:	Joanne Winningham
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State of California
Secretary of State



I, BRUCE McPHERSON, Secretary of State of the State of California, hereby certify:

That the attached transcript of 22 page(s) has been compared with the record on file in this office, of which it purports to be a copy, and that it is full, true and correct.



IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

FEB 10 2006

BRUCE McPHERSON
Secretary of State

FEB - 9 - 2006

**AMENDED AND RESTATED ARTICLES OF INCORPORATION OF
LIGHTSPEED SEMICONDUCTOR CORPORATION**


The undersigned, David R. Holt III and Thomas R. Paskert, certify that:

1. They are the duly elected and acting President and Secretary, respectively, of LightSpeed Semiconductor Corporation, a California corporation (the "Company").
2. The Articles of Incorporation of the Company are amended and restated in full to read as set forth in Exhibit A attached hereto and the Amended and Restated Articles of Incorporation of the Company set forth in Exhibit A hereto are hereby incorporated by reference as if fully set forth herein.
3. The Amended and Restated Articles of Incorporation of the Company attached hereto have been duly approved by the Board of Directors of the Company.
4. The Amended and Restated Articles of Incorporation of the Company attached hereto have been duly approved by the shareholders of this corporation in accordance with Sections 902 and 903 of the California Corporations Code. The total number of outstanding shares of Common Stock is 362,336 and the total number of outstanding shares of Preferred Stock is 6,770,910 (consisting of 298,148 outstanding shares of Series A Preferred Stock, 515,589 outstanding shares of Series B Preferred Stock, 277,650 outstanding shares of Series C Preferred Stock, 448,015 outstanding shares of Series D Preferred Stock and 5,231,508 outstanding shares of Series E Preferred Stock). The percentage vote required was approval by: (i) a majority of the outstanding shares of Common Stock, (ii) a majority of the outstanding shares of Series A Preferred Stock, (iii) a majority of the outstanding shares of Series B Preferred Stock, (iv) a majority of the outstanding shares of Series C Preferred Stock, (v) a majority of the outstanding shares of Series D Preferred Stock, (vi) a majority of the outstanding shares of Series E Preferred Stock, (vii) 66 2/3% of the outstanding shares of Preferred Stock, and (viii) a majority of the outstanding shares of Common Stock and Preferred Stock, voting together as a class. The number of shares of Common Stock, Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Preferred Stock voting together as a class, and Common Stock and Preferred Stock voting together as a class, equaled or exceeded the vote required.

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

Date: February 8, 2006


David R. Holt III
Thomas R. Paskert

[SIGNATURE PAGE TO AMENDED AND RESTATED ARTICLES OF INCORPORATION]

Exhibit A
AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
LIGHTSPEED LOGIC, INC.

FIRST. The name of the corporation is hereby changed from "Lightspeed Semiconductor Corporation" to "Lightspeed Logic, Inc."

SECOND. The purpose of the corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of California other than the banking business, the trust company business or the practice of a profession permitted to be incorporated under the California Corporations Code.

THIRD. (a) The aggregate number of shares that the corporation shall have authority to issue is 32,286,934 shares, including 18,965,417 shares of Common Stock, each with the par value of \$.001 per share, and 13,321,517 shares of Preferred Stock, each with the par value of \$.001 per share. The Preferred Stock shall be issued in three series, which shall be designated "Series A-1 Preferred Stock," consisting of 3,213,619 shares, "Series B-1 Preferred Stock," consisting of 5,260,980 shares, and "Series C-1 Preferred Stock," consisting of 4,846,918 shares.

Effective upon the filing (the "Effective Time") of these Amended and Restated Articles of Incorporation of the Company (the "Articles"), there shall be effected a reclassification (the "Stock Reclassification") with respect to the Company's issued and outstanding Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock and Series E Preferred Stock as follows:

(1) Each issued and outstanding share of Series A Preferred Stock shall be reclassified pursuant to an amendment to the designation, rights, preferences, privileges and restrictions of the Series A Preferred Stock in accordance with this Article into 1.2900 shares of Series A-1 Preferred Stock, and each outstanding stock certificate of the Company representing shares of Series A Preferred Stock shall represent that number of shares of Series A-1 Preferred Stock equal to the product of: (x) the number of shares of Series A Preferred Stock represented by such stock certificate and (y) 1.2900. The Company shall, upon the request of each holder of record of a certificate that represented shares of Series A Preferred Stock or a warrant to purchase Series A Preferred Stock immediately prior to the Effective Time, issue and deliver to such holder in exchange for such certificate or warrant a new certificate representing shares of the Series A-1 Preferred Stock or a new warrant to purchase Series A-1 Preferred Stock, as applicable; provided, however, that the reclassification of each issued and outstanding share of Series A Preferred Stock as set forth herein shall be effective for all of the issued and outstanding shares of Series A Preferred

Stock and for all of the warrants to purchase Series A Preferred Stock outstanding immediately prior to the Effective Time regardless of whether such certificates or warrants are so exchanged with the Company.

(2) Each issued and outstanding share of "Series B Preferred Stock" shall be reclassified pursuant to an amendment to the designation, rights, preferences, privileges and restrictions of the Series B Preferred Stock in accordance with this Article, into 1.9570 shares of Series A-1 Preferred Stock, and each outstanding stock certificate of the Company representing shares of Series B Preferred Stock shall represent that number of shares of Series A-1 Preferred Stock equal to the product of: (x) the number of shares of Series B Preferred Stock represented by such stock certificate and (y) 1.9570. The Company shall, upon the request of each holder of record of a certificate that represented shares of Series B Preferred Stock or a warrant to purchase Series B Preferred Stock immediately prior to the Effective Time, issue and deliver to such holder in exchange for such certificate or warrant a new certificate representing shares of Series A-1 Preferred Stock or a new warrant to purchase Series A-1 Preferred Stock, as applicable; provided, however, that the reclassification of each issued and outstanding share of Series B Preferred Stock as set forth herein shall be effective for all of the issued and outstanding shares of Series B Preferred Stock and for all of the warrants to purchase Series B Preferred Stock outstanding immediately prior to the Effective Time regardless of whether such certificates or warrants are so exchanged with the Company.

(3) Each issued and outstanding share of "Series C Preferred Stock" shall be reclassified pursuant to an amendment to the designation, rights, preferences, privileges and restrictions of the Series C Preferred Stock in accordance with this Article, into 2.3125 shares of Series A-1 Preferred Stock, and each outstanding stock certificate of the Company representing shares of Series C Preferred Stock shall represent that number of shares of Series A-1 Preferred Stock equal to the product of: (x) the number of shares of Series C Preferred Stock represented by such stock certificate and (y) 2.3125. The Company shall, upon the request of each holder of record of a certificate that represented shares of Series C Preferred Stock or a warrant to purchase Series C Preferred Stock immediately prior to the Effective Time, issue and deliver to such holder in exchange for such certificate or warrant a new certificate representing shares of Series A-1 Preferred Stock or a new warrant to purchase Series A-1 Preferred Stock, as applicable; provided, however, that the reclassification of each issued and outstanding share of Series C Preferred Stock as set forth herein shall be effective for all of the issued and outstanding shares of Series C Preferred Stock and for all of the warrants to purchase Series C Preferred Stock outstanding immediately prior to the Effective Time regardless of whether such certificates or warrants are so exchanged with the Company.

(4) Each issued and outstanding share of "Series D Preferred Stock" shall be reclassified pursuant to an amendment to the designation, rights, preferences, privileges and restrictions of the Series D Preferred Stock in accordance with this Article, into 2.5929 shares of Series A-1 Preferred Stock, and each outstanding stock certificate of the Company representing shares of Series D Preferred Stock shall represent that number of shares of Series A-1 Preferred Stock equal to the product of: (x) the number of shares of Series D Preferred Stock represented by such stock certificate and (y) 2.5929. The Company shall, upon the request of each holder of record of a certificate that represented shares of Series D Preferred Stock or a warrant to

purchase Series D Preferred Stock immediately prior to the Effective Time, issue and deliver to such holder in exchange for such certificate or warrant a new certificate representing shares of Series A-1 Preferred Stock or a new warrant to purchase Series A-1 Preferred Stock, as applicable; provided, however, that the reclassification of each issued and outstanding share of Series D Preferred Stock as set forth herein shall be effective for all of the issued and outstanding shares of Series D Preferred Stock and for all of the warrants to purchase Series D Preferred Stock outstanding immediately prior to the Effective Time regardless of whether such certificates or warrants are so exchanged with the Company.

(5) Each issued and outstanding share of "Series E Preferred Stock" shall be reclassified pursuant to an amendment to the designation, rights, preferences, privileges and restrictions of the Series E Preferred Stock in accordance with this Article, into one (1) share of Series B-1 Preferred Stock, and each outstanding stock certificate of the Company representing shares of Series E Preferred shall represent an equal number of shares of Series B-1 Preferred Stock. The Company shall, upon the request of each holder of record of a certificate that represented shares of Series E Preferred Stock or a warrant to purchase Series E Preferred Stock immediately prior to the Effective Time, issue and deliver to such holder in exchange for such certificate or warrant a new certificate representing shares of Series B -1 Preferred Stock or a new warrant to purchase Series B-1 Preferred Stock, as applicable; provided, however, that the reclassification of each issued and outstanding share of Series E Preferred Stock as set forth herein shall be effective for all of the issued and outstanding shares of Series E Preferred Stock and for all of the warrants to purchase Series E Preferred Stock outstanding immediately prior to the Effective Time regardless of whether such certificates or warrants are so exchanged with the Company.

(6) Such reclassifications shall be effected on a certificate-by-certificate basis and no fractional shares will be issued in connection with such reclassifications. In lieu of any fractional shares of Series A-1 Preferred Stock to which a holder would otherwise be entitled to pursuant to the reclassifications set forth in paragraphs 1-4 above, the Company shall pay cash equal to such fraction multiplied by \$0.77793.

(7) Further, in connection with the Stock Reclassification, (i) the designation, rights, preferences, privileges and restrictions of the previously authorized Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock are hereby amended to reflect the designation, rights, preferences, privileges and restrictions of the Series A-1 Preferred Stock set forth in these Articles and (ii) the designation, rights, preferences, privileges and restrictions of the previously authorized Series E Preferred Stock are hereby amended to reflect the designation, rights, preferences, privileges and restrictions of the Series B-1 Preferred Stock set forth in these Articles. The outstanding shares of Common Stock will not be affected by the Stock Reclassification.

(c) The designation, rights, preferences, privileges and restrictions of the Preferred Stock (as defined below) are as follows:

2. Definitions. For purposes of this Article, the following definitions shall apply:

(a) "Company" shall mean Lightspeed Logic, Inc.

(b) "Liquidation Preference" shall mean \$0.77793 per share for the Series A-1 Preferred Stock, \$1.4256 per share for the Series B-1 Preferred Stock, and \$1.2379 per share for the Series C-1 Preferred Stock, in each case plus an amount equal to all declared but unpaid dividends thereon, if any, to the date that payment is made (each subject to adjustment from time to time for stock splits, stock dividends, combinations, reclassifications, recapitalizations, anti-dilution adjustments or the like).

(c) "Original Issue Date" shall mean, respectively, the dates upon which shares of Series A-1 Preferred Stock, Series B-1 Preferred Stock and Series C-1 Preferred Stock are first issued.

(d) "Original Issue Price" shall mean \$0.77793 per share for the Series A-1 Preferred Stock, \$1.4256 per share for the Series B-1 Preferred Stock and \$1.2379 per share for the Series C-1 Preferred Stock (subject to adjustment from time to time as set forth elsewhere herein).

(e) "Preferred Stock" shall mean, collectively, the Series A-1 Preferred Stock, the Series B-1 Preferred Stock, and the Series C-1 Preferred Stock.

3. Dividends.

(a) Dividend Preference. The holders of outstanding shares of Series C-1 Preferred Stock shall be entitled to receive dividends, out of any assets at the time legally available therefor, prior and in preference to any declaration or payment of any dividend (payable other than in Common Stock of the Company) on the Series A-1 Preferred Stock, Series B-1 Preferred Stock, the Common Stock or any other class of capital stock of the Company, at the rate of \$0.1114 per share of Series C-1 Preferred Stock per annum (as adjusted for stock splits, stock dividends, combinations, reclassifications, recapitalizations, anti-dilution adjustments or the like) or, if greater (as determined on an as-converted basis for the Preferred Stock), an amount equal to that paid on the outstanding shares of Common Stock of the Company, when, as and if declared by the Board of Directors. After payment in full of any preferential Distributions (as defined below) to the holders of the Series C-1 Preferred Stock for all periods from the Original Issue Date of such shares of Series C-1 Preferred Stock, the holders of outstanding shares of Series A-1 Preferred Stock and Series B-1 Preferred Stock shall be entitled to receive dividends, out of any assets at the time legally available therefor, prior and in preference to any declaration or payment of any dividend (payable other than in Common Stock of the Company) on the Common Stock of the Company, at the rate of \$0.0700 per share of Series A-1 Preferred Stock and \$0.1283 per share of Series B-1 Preferred Stock per annum (as adjusted for stock splits, stock dividends, combinations, reclassifications, recapitalizations, anti-dilution adjustments or the like) or, if greater (as determined on an as-converted basis for the Preferred Stock), an amount equal to that paid on the outstanding shares of Common Stock of the Company, when, as and if declared by the Board of Directors; provided, however, that the Board of Directors is under no obligation to pay dividends to such holders of Preferred Stock or Common Stock, and such dividends, if any, shall be noncumulative. Such dividends may be payable quarterly or otherwise as the Board of Directors may from time to time determine. After payment in full of any preferential Distributions (as defined below) to the holders of the Series C-1 Preferred Stock, Series B-1 Preferred Stock and Series A-1 Preferred Stock for all periods from the applicable Original Issue Date of such shares of Preferred Stock, if and to the extent

that the Board of Directors of the Company shall declare and set aside for payment any other and further amount of cash or property as a Distribution, such Distribution shall be made with equal priority to the Common Stock and the Preferred Stock, with each share of Preferred Stock being treated for such purpose as if it had been converted into Common Stock at the then effective Conversion Rate (as hereinafter defined). For such purpose, all shares of Preferred Stock held by each holder of Preferred Stock shall be aggregated, and any resulting fractional share of Common Stock shall be disregarded.

(b) Priority of Dividends. The Company shall make no Distribution (as defined below) to the holders of shares of Series A-1 Preferred Stock, Series B-1 Preferred Stock, the Common Stock or any other capital stock of the Company in any fiscal year unless and until all Distributions to the holders of the Series C-1 Preferred Stock for all periods from the Original Issue Date of such shares of Series C-1 Preferred Stock, including without limitation all dividends declared but not paid in accordance with Section 3(a) above, shall have been paid or set apart for payment, upon all shares of Series C-1 Preferred Stock. The Company shall make no Distribution to the holders of shares of Common Stock in any fiscal year unless and until all dividends shall have been paid, or declared and set apart, upon all shares of Series A-1 Preferred Stock, Series B-1 Preferred Stock and Series C-1 Preferred Stock, as set forth in Section 3(a) above.

(c) Distribution. As used in this section, "Distribution" means the transfer of cash or property without consideration, whether by way of dividend or otherwise (except a dividend in Common Stock of the Company) or the purchase of shares of the Company (other than in connection with the repurchase at cost of shares of Common Stock issued to or held by employees, consultants, officers and directors of the Company or any subsidiary upon termination of their employment or services pursuant to agreements providing for the right of said repurchase) for cash or property.

(d) Consent to Certain Repurchases. As authorized by Section 402.5(c) of the California Corporations Code, Sections 502 and 503 of the California Corporations Code shall not apply with respect to Distributions made by the Company in connection with the repurchase of shares of Common Stock issued to or held by employees, consultants, officers or directors upon termination of their employment or services pursuant to agreements previously approved by the Board of Directors.

(e) Valuation of Non-Cash Property. In the event of a Distribution to the holders of Preferred Stock in the form of property, securities or other non-cash items, the value of such property, securities or other non-cash items shall be determined in accordance with Section 5(e)(v)(1)(b) hereof.

4. Liquidation Rights.

(a) Liquidation Preference.

(i) Series C-1 Liquidation Preference. In the event of any liquidation, dissolution or winding up of the Company, either voluntary or involuntary (each, a "Liquidation Event"), the holders of the Series C-1 Preferred Stock shall be entitled to receive, out of the assets of the Company, the Liquidation Preference specified for each share of Series C-1 Preferred Stock then

held by them before any payment shall be made or any assets distributed to the holders of Series A-1 Preferred Stock, Series B-1 Preferred Stock, Common Stock or any other capital stock of the Company. If upon a Liquidation Event, the assets to be distributed among the holders of the Series C-1 Preferred Stock are insufficient to permit the payment to such holders of the full Liquidation Preference for their shares of Series C-1 Preferred Stock, then the entire assets of the Company legally available for distribution shall be distributed among the holders of the Series C-1 Preferred Stock in proportion to the aggregate amounts which such holders would otherwise be entitled pursuant to this Section 4(a)(i).

(ii) Series A-1 Preferred Stock and Series B-1 Preferred Stock Liquidation Preference. After the payment to the holders of Series C-1 Preferred Stock of the full preferential amounts specified in Section 4(a)(i) above, the holders of the Series A-1 Preferred Stock and Series B-1 Preferred Stock shall be entitled to receive, out of the remaining assets of the Company, the Liquidation Preference specified for each share of Series A-1 Preferred Stock and Series B-1 Preferred Stock then held by them before any payment shall be made or any assets distributed to the holders of Common Stock. If, after the payment to the holders of Series C-1 Preferred Stock of the full preferential amounts specified in Section 4(a)(i) above, the remaining assets to be distributed among the holders of the Series A-1 Preferred Stock and Series B-1 Preferred Stock are insufficient to permit the payment to such holders of the full Liquidation Preference for their shares, then the entire assets of the Company legally available for distribution in excess of the amounts distributed to the holders of Series C-1 Preferred Stock pursuant to Section 4(a)(i) above shall be distributed with equal priority and pro rata among the holders of shares of Series A-1 Preferred Stock and Series B-1 Preferred Stock in proportion to the aggregate amounts which such holders would otherwise be entitled pursuant to this Section 4(a)(ii).

(iii) Remaining Portion. Upon satisfaction in full of all preferential payments to holders of Preferred Stock as set forth in Sections 4(a)(i) and 4(a)(ii) above, all remaining assets of the Company shall be distributed with equal priority and pro rata among the holders of Common Stock in proportion to the number of shares of Common Stock held by each.

(b) Reorganization. For purposes of this Section 4, a Liquidation Event shall be deemed to be occasioned by, or to include: (A) the acquisition of the Company by another entity by means of any transaction or series of related transactions, any reorganization, merger or consolidation, tender offer, business combination or other event or transaction (but excluding any merger effected exclusively for the purpose of changing the domicile of the Company or any equity financing transaction or series of related equity financing transactions for cash) that results in the holders of the voting securities of the Company outstanding immediately prior to such transaction retaining less than a majority of the total voting power represented by the voting securities of the Company or such surviving entity outstanding immediately after such transaction or series of transactions or (B) a sale, transfer, lease or other conveyance of all or substantially all of the assets of the Company (other than to a wholly owned subsidiary of the Company).

(c) Valuation of Non-Cash Property. In the event of a Liquidation Event pursuant to which the holders of Preferred Stock receive the applicable Liquidation Preference with respect to such shares in the form of property, securities or other non-cash items, the value of such property,

securities or other non-cash items shall be determined in accordance with Section 5(e)(v)(1)(b) hereof.

5. Conversion. The holders of the Preferred Stock shall have conversion rights as follows (the "Conversion Rights"):

(a) Right to Convert. Each share of Preferred Stock shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share at the office of the Company or any transfer agent for the Preferred Stock, into that number of fully-paid non-assessable shares of Common Stock determined by dividing the Original Issue Price of the relevant series of Preferred Stock by the Conversion Price (as hereinafter defined) of such series of Preferred stock. (The number of shares of Common Stock into which each share of Preferred Stock may be converted is hereinafter referred to as the "Conversion Rate" for each such series of Preferred Stock.)

(b) Conversion Price. The Conversion Price for the Series A-1 Preferred Stock shall initially be \$0.77793 and shall be subject to adjustment as provided herein. The Conversion Price for the Series B-1 Preferred Stock shall initially be \$1.4256 and shall be subject to adjustment as provided herein. The Conversion Price for the Series C-1 Preferred Stock shall initially be \$1.2379 and shall be subject to adjustment as provided herein. Upon any decrease or increase in the Conversion Price or the Conversion Rate for a series of Preferred Stock, as described in this Section 5, the Conversion Rate or the Conversion Price for such series, as the case may be, shall be appropriately increased or decreased.

(c) Automatic Conversion.

(i) Each share of Preferred Stock shall automatically be converted into fully-paid, non-assessable shares of Common Stock at the then effective Conversion Rate for such share immediately upon the occurrence of the consummation of a firmly underwritten public offering of the Company's Common Stock on Form S-1 (or successor or substitute form) filed under the Securities Act of 1933, as amended (the "Securities Act"), covering the offer and sale of the Company's Common Stock, provided that the price per share is not less than \$6.1895 (subject to appropriate adjustment for stock splits, stock dividends, combinations, reclassifications, recapitalizations, anti-dilution adjustments or the like) and the aggregate gross proceeds to the Company are not less than \$20,000,000 (a "Qualifying Public Offering"); or

(ii) Each share of Series A-1 Preferred Stock and Series B-1 Preferred Stock shall automatically be converted into fully-paid, non-assessable shares of Common Stock at the then effective Conversion Rate for such share immediately upon the receipt by the Company of the written consent to or request for such conversion of holders of at least two thirds (2/3) of the Series A-1 Preferred Stock and Series B-1 Preferred Stock then outstanding, on an as-converted basis, voting together as a single class; and

(iii) Each share of Series C-1 Preferred Stock shall automatically be converted into fully-paid, non-assessable shares of Common Stock at the then effective Conversion Rate for such share immediately upon the receipt by the Company of the written consent to or

request for such conversion of holders of at least two thirds (2/3) of the Series C-1 Preferred Stock then outstanding, on an as-converted basis.

(d) Mechanics of Conversion. No fractional shares of 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 Company shall pay cash equal to such fraction multiplied by the then fair market value of such fractional shares as determined by the Board of Directors of the Company. For such purpose, all shares of Preferred Stock held by each holder of Preferred Stock shall be aggregated, and any resulting fractional share of Common Stock shall be paid in cash. Before any holder of Preferred Stock shall be entitled to convert the same into full shares of Common Stock, and to receive certificates therefor, such holder shall surrender the certificate or certificates therefor, duly endorsed (or, in the event such certificates have been lost, stolen or destroyed, written notice to the Company of such loss, theft or destruction, together with an agreement reasonably satisfactory to the Company to indemnify the Company from any loss incurred by it in connection with such certificates) at the office of the Company or of any transfer agent for the Preferred Stock, and shall give written notice to the Company at such office that such holder elects to convert the same and such notice shall state the number of shares of Preferred Stock being converted, and shall state the name or names in which the certificate or certificates for shares of Common Stock shall be issued; provided, however, that in the event of an automatic conversion pursuant to Section 5(c) above, the outstanding shares of Preferred Stock shall be converted automatically without any further action by the holders of such shares and whether or not the certificates representing such shares are surrendered to the Company or its transfer agent; provided further, however, that the Company shall not be obligated to issue certificates evidencing the shares of Common Stock issuable upon such automatic conversion unless either the certificates evidencing such shares of Preferred Stock are delivered to the Company or its transfer agent as provided above, or the holder notifies the Company or its transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement reasonably satisfactory to the Company to indemnify the Company from any loss incurred by it in connection with such certificates.

The Company shall, as soon as practicable after such delivery, or after such agreement and indemnification, issue and deliver at such office to such holder of Preferred Stock, a certificate or certificates for the number of shares of Common Stock to which such holder shall be entitled as aforesaid and a check payable to the holder in the amount of any cash amounts payable as the result of a conversion into fractional shares of Common Stock, plus any declared and unpaid dividends on the converted Preferred Stock. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of Preferred Stock to be converted, and the person or persons entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock on such date; provided, however, that if the conversion is in connection with an underwritten offer of securities registered pursuant to the Securities Act or in connection with a Liquidation Event, the conversion may, at the option of any holder tendering Preferred Stock for conversion, be conditioned upon the closing of the sale of securities pursuant to such offering or the closing of the Liquidation Event, as applicable, in which event the person(s) entitled to receive the Common Stock issuable upon such conversion of the Preferred Stock shall not be deemed to have converted such Preferred Stock until immediately prior to the closing of the sale of such securities or the closing of the Liquidation Event, as applicable.

(e) Adjustments to Conversion Price.

(i) Special Definition. For purposes of this Section 5(e), the following definitions shall apply:

(1) "Additional Shares of Common" shall mean, with respect to each series of Preferred Stock, all shares of Common Stock issued (or, pursuant to Section 5(e)(iii), deemed to be issued) by the Company after the Effective Time, other than:

(a) shares of Common Stock issued or issuable upon conversion of shares of Preferred Stock;

(b) 3,281,540 shares of Common Stock issued or issuable to officers, directors or employees of, or consultants to the Company pursuant to the Company's 1996 Stock Plan or pursuant to any other plans, agreements, contracts or other arrangements approved by the affirmative vote of at least four members of the Board of Directors;

(c) shares of Common Stock issued or issuable as a Distribution on Preferred Stock or pursuant to any event for which adjustment is made pursuant to Section 5(e)(vi), (vii), (viii) or (ix) hereof;

(d) shares of Common Stock issued or issuable upon conversion or exercise of any of the Company's securities outstanding as of the Original Issue Date of the Series C-1 Preferred Stock;

(e) shares of Common Stock issued or issuable to sales representatives and distributors that market, sell and distribute the Company's products or otherwise act as vendors to the Company, employees of such organizations and shareholders or other equity owners of such organizations pursuant to the Company's 2001 Stock Plan For Sales Representatives And Distributors or any other plans, agreements, contracts or other arrangements approved by at least four members of the Board of Directors;

(f) shares of Common Stock issued or issuable in connection with any joint venture or acquisition approved by the affirmative vote of at least four members of the Board of Directors;

(g) shares of Series C-1 Preferred Stock issued at a price per share of at least \$1.2379; and

(h) shares of Common Stock, Preferred Stock, Convertible Securities and Options excluded from this definition of Additional Shares of Common Stock with the written consent of holders of at least a two-thirds of the Preferred Stock and two-thirds of the Series C-1 Preferred Stock;

provided, however, that the aggregate number of shares of Common Stock excluded from the definition of Additional Shares of Common by operation of clauses (e) and (f) above shall not at any time exceed 2,000,000 shares in the aggregate for both such clauses (subject to appropriate

adjustment of such amounts for stock splits, stock dividends, combinations recapitalizations, and the like).

(2) "Convertible Securities" shall mean any evidence of indebtedness, shares or other securities directly or indirectly convertible into or exchangeable for Common Stock.

(3) "Options" shall mean any right, option, or warrant to subscribe for, purchase, or otherwise acquire Common Stock or Convertible Securities.

(ii) No Adjustment of Conversion Price. No adjustment in the Conversion Price of a particular share of Preferred Stock shall be made in respect of the issuance of Additional Shares of Common unless the consideration per share for an Additional Share of Common issued or deemed to be issued by the Company is less than the applicable Conversion Price in effect on the date of, and immediately prior to such issue, for such share of Preferred Stock.

(iii) Deemed Issue of Additional Shares of Common.

(1) Options and Convertible Securities. In the event the Company at any time or from time to time after the Original Issue Date of a particular series of Preferred Stock shall issue any Options or Convertible Securities or shall fix a record date for the determination of holders of any class of securities entitled to receive any such Options or Convertible Securities, then the maximum number of shares (as set forth in the instrument relating thereto without regard to any provisions contained therein for a subsequent adjustment of such number) of Common Stock issuable upon the exercise of such Options or, in the case of Convertible Securities and Options therefor, the conversion or exchange of such Convertible Securities or exercise of such Options, shall, with respect to such series of Preferred Stock, be deemed to be Additional Shares of Common issued as of the time of such issuance or, in case such a record date shall have been fixed, as of the close of business on such record date, provided that Additional Shares of Common shall not be deemed to have been issued unless the consideration per share (determined pursuant to Section 5(e)(v) hereof) of such Additional Shares of Common would be less than the applicable Conversion Price of such series of Preferred Stock in effect on the date of and immediately prior to such issue, or such record date, as the case may be, and provided further that in any such case in which Additional Shares of Common are deemed to be issued:

(a) no further adjustment in the Conversion Price of such series of Preferred Stock shall be made upon the subsequent issue of Convertible Securities or shares of Common Stock upon the exercise of such Options or conversion or exchange of such Convertible Securities;

(b) if such Options or Convertible Securities by their terms provide, with the passage of time or otherwise, for any increase in the consideration payable to the Company, or decrease in the number of shares of Common Stock issuable, upon the exercise, conversion or exchange thereof, the Conversion Price of such series of Preferred Stock computed upon the original issue thereof (or upon the occurrence of a record date with respect thereto), and any subsequent adjustments based thereon, shall, upon any such increase or decrease becoming

effective, be recomputed to reflect such increase or decrease insofar as it affects such Options or the rights of conversion or exchange under such Convertible Securities;

(c) no readjustment pursuant to clause (b) above or clause (d) below shall have the effect of increasing the Conversion Price of such series of Preferred Stock to an amount which exceeds the lower of (i) the Conversion Price of such series of Preferred Stock on the original adjustment date and (ii) the Conversion Price of such series of Preferred Stock that would have resulted from any issuance of Additional Shares of Common between the original adjustment date and such readjustment date;

(d) upon the expiration of any such Options or any rights of conversion or exchange under such Convertible Securities which shall not have been exercised, the Conversion Prices computed upon the original issuance thereof (or upon the occurrence of a record date with respect thereto) and any subsequent adjustments based thereon shall, upon such expiration, be recomputed as if:

i) in the case of Convertible Securities or Options for Common Stock, the only Additional Shares of Common issued were the shares of Common Stock, if any, actually issued upon the exercise of such Options or the conversion or exchange of such Convertible Securities and the consideration received therefor was the consideration actually received by the Company for the issuance of such exercised Options plus the consideration actually received by the Company upon such exercise or for the issue of all such Convertible Securities which were actually converted or exchanged, plus the additional consideration, if any, actually received by the Company upon such conversion or exchange; and

ii) in the case of Options for Convertible Securities, only the Convertible Securities, if any, actually issued upon the exercise thereof were issued at the time of issuance of such Options, and the consideration received by the Company for the Additional Shares of Common deemed to have been then issued was the consideration actually received by the Company for the issue of such exercised Options, plus the consideration deemed to have been received by the Company (determined pursuant to Section 5(e)(v) below) upon the issuance of the Convertible Securities with respect to which such Options were actually exercised; and

(e) if such record date shall have been fixed and such Options or Convertible Securities are not issued on the date fixed therefor, the adjustment previously made in the Conversion Prices which became effective on such record date shall be canceled as of the close of business on such record date, and thereafter the Conversion Prices shall be adjusted pursuant to this Section 5(e)(iii) as of the actual date of their issuance.

(2) Stock Dividends. In the event the Company at any time or from time to time after the Original Issue Date of a particular series of Preferred Stock shall declare or pay any dividend on the Common Stock payable in Common Stock, and with respect to which no similar Common Stock dividend is to be distributed to holders of such series of Preferred Stock, then and in any such event, Additional Shares of Common shall, with respect to such series of Preferred

Stock, be deemed to have been issued immediately after the close of business on the record date for the determination of holders of any class of securities entitled to receive such dividend.

(iv) Adjustment of Conversion Price Upon Issuance of Additional Shares of Common.

(1) Preferred Stock. In the event the Company shall issue Additional Shares of Common (including Additional Shares of Common deemed to be issued pursuant to Section 5(e)(iii) above) after the Original Issue Date of the Series C Preferred Stock without consideration or for a consideration per share less than the applicable Conversion Price for any series of Preferred Stock in effect on the date of and immediately prior to such issuance, then and in such event, the applicable Conversion Price for such series of Preferred Stock shall be reduced, concurrently with such issuance, to a price (calculated to the nearest one-tenth cent) determined by multiplying each such Conversion Price by a fraction (x) the numerator of which shall be the sum of (1) the number of shares of Common Stock outstanding immediately prior to such issuance plus (2) the number of shares of Common Stock which the aggregate consideration received by the Company for the total number of Additional Shares of Common Stock so issued would purchase at the applicable Conversion Price, and (y) the denominator of which shall be the sum of (1) the number of shares of Common Stock outstanding immediately prior to such issue plus (2) the number of such Additional Shares of Common so issued.

(2) Common Stock Deemed Outstanding. For the purposes of this Subsection 4(e)(iv), all shares of Common Stock issuable upon conversion of all outstanding shares of Preferred Stock and the exercise and/or conversion of any other outstanding Convertible Securities and all outstanding Options shall be deemed to be outstanding.

(3) No De Minimis Reduction in Conversion Price. The Conversion Price shall not be reduced pursuant to this Section 5(e)(iv) if the amount of such reduction would be an amount less than \$0.001, but any such amount shall be carried forward and reduction with respect thereto made at the time of and together with any subsequent reduction which, together with such amount and any other amount or amounts so carried forward, shall aggregate \$0.001 or more.

(v) Determination of Consideration. For purposes of this Section 5(e), the consideration received by the Company for the issue of any Additional Shares of Common shall be computed as follows:

(1) Cash and Property. Such consideration shall:

(a) Insofar as it consists of cash, be computed at the aggregate amount of cash received by the Company excluding amounts paid or payable for accrued interest or accrued dividends.

(b) Insofar as it consists of property, securities or non-cash items, be computed as follows:

i) Any securities shall be valued as follows:

A) Securities not subject to investment letter or other similar restrictions on free marketability covered by subclause (B) below:

1) If traded on a national securities exchange or through the Nasdaq National Market, the value shall be deemed to be the average of the closing prices of the securities on such quotation system over the thirty (30) day period ending three (3) days prior to the date of determination;

2) If actively traded over-the-counter, the value shall be deemed to be the average of the closing bid or sale prices (whichever is applicable) over the thirty (30) day period ending three (3) days prior to the date of determination; and

3) If there is no active public market, the value shall be the fair market value thereof, as determined in good faith by unanimous vote or consent of the Board of Directors; provided, however, that if the Board of Directors cannot reach such a determination, the fair market value shall be determined as set forth in subparagraph (ii) below); and

B) The method of valuation of securities subject to investment letter or other restrictions on free marketability (other than restrictions arising solely by virtue of a shareholder's status as an affiliate or former affiliate) shall be to make an appropriate discount from the market value determined as above in subclause (A) above to reflect the approximate fair market value thereof, as determined in good faith by unanimous vote or consent of the Board of Directors; provided, however, that if the Board of Directors cannot reach such a determination, the fair market value shall be determined as set forth in subparagraph (iii) below).

ii) The value of all other property or non-cash items shall be the fair market value of such property or consideration as determined in good faith by unanimous vote or consent of the Board of Directors; provided, however, that if the Board of Directors cannot reach such a determination, the fair market value shall be determined as set forth in subparagraph (iii) below).

iii) If the Board of Directors is unable to come to a determination of the fair market value of any property, security or non-cash items, the holders of at least two-thirds of the Series A-1 Preferred Stock and Series B-1 Preferred Stock, voting together as a single class (the "Prior Preferred Stock") and the holders of at least two-thirds of the Series C-1 Preferred Stock shall each have the right to obtain, within an additional thirty (30) day period, a separate valuation of such property, security or other non-cash items each from a nationally-recognized investment bank with experience in making such evaluations (the investment bank chosen by the holders of the Prior Preferred Stock shall hereafter be referred to as the "Prior Preferred Investment Bank" and the investment bank chosen by the holders of the Series C-1 Preferred Stock shall hereafter be referred to as the "Series C-1 Investment Bank"). In the event the valuations determined by the Prior Preferred Investment Bank and the Series C-1 Investment Bank are the same, or if only one valuation is received from either investment bank, that valuation shall be deemed to be the fair market value of such property, security or other non-cash items for purposes of

this paragraph iii). If the valuations from the Prior Preferred Investment Bank and the Series C-1 Investment Bank differ by ten percent (10%) or less, the valuation of such property, security or other non-cash items shall be deemed to be the average of the two valuations. If, on the other hand, the valuations from the Prior Preferred Investment Bank and the Series C-1 Investment Bank differ by more than ten percent (10%), a valuation from an independent investment bank (the "Independent Investment Bank") shall be obtained within an additional thirty (30) day period to determine the valuation of such property, security or other non-cash items. The Independent Investment Bank shall be appointed by the Prior Preferred Investment Bank and the Series C-1 Investment Bank. The Independent Investment Bank shall not be apprised by any party of the two initial valuations received from the Prior Preferred Investment Bank and the Series C-1 Investment Bank prior to the delivery of its valuation. Upon receipt of the valuation from the Independent Investment Bank, the fair market value of such property, security or other non-cash items shall be the average of the two investment bank valuations that are closest together, with the third valuation being disregarded. The Company shall use its reasonable best efforts to ensure that the information shall be complete and accurate in all material respects and that any forecasts shall be based on unbiased assessments made in good faith. The Company shall cooperate fully with such valuation firms in the conduct of their valuation, including making management reasonably available and offering access to the premises of the Company to the valuation firms during regular business hours and on reasonable notice. Subject to the approval of at least four members of the Board of Directors, the fees and expenses of all valuation firms retained pursuant to this subparagraph (iii) shall be paid by the Company.

(c) In the event Additional Shares of Common are issued together with other shares or securities or other assets of the Company for consideration that covers both, be the proportion of such consideration so received, computed as provided in clauses (a) and (b) above, as reasonably determined in good faith by the unanimous vote or consent of the Board.

(2) Options and Convertible Securities. The consideration per share received by the Company for Additional Shares of Common deemed to have been issued pursuant to Section 5(e)(iii)(1), relating to Options and Convertible Securities, shall be determined by dividing:

(x) the total amount, if any, received or receivable by the Company as consideration for the issuance of such Options or Convertible Securities, plus the minimum aggregate amount of additional consideration (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such consideration) payable to the Company upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities; by

(y) the maximum number of shares of Common Stock (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or the conversion or exchange of such Convertible Securities.

(3) Stock Dividends. Any Additional Shares of Common deemed to have been issued relating to stock dividends shall be deemed to have been issued for no consideration.

(vi) Adjustments for Subdivisions or Combinations of Common Stock. In the event the outstanding shares of Common Stock shall be subdivided (by stock split or by payment of a dividend in Common Stock) into a greater number of shares of Common Stock, the applicable Conversion Price 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 Common Stock shall be combined (by reclassification or otherwise) into a lesser number of shares of Common Stock, the applicable Conversion Price in effect immediately prior to such combination shall, concurrently with the effectiveness of such combination, be proportionately increased.

(vii) Adjustments for Other Distributions. In the event the Company at any time or from time to time makes or fixes a record date for the determination of holders of Common Stock entitled to receive any distribution payable in securities of the Company other than shares of Common Stock and other than as otherwise adjusted in this Section 5 and subject to Sections 3 and 4 hereof, then and in each such event provision shall be made so that the holders of Preferred Stock shall receive upon conversion thereof, in addition to the number of shares of Common Stock receivable thereupon, the amount of securities of the Company which they would have received had their Preferred Stock been converted into Common Stock on the date of such event and had they thereafter, during the period from the date of such event to and including the date of conversion, retained such securities receivable by them as aforesaid during such period, subject to all other adjustments called for during such period under this Section 5 with respect to the rights of the holders of the Preferred Stock.

(viii) Other Distributions. In the event the Company shall declare a distribution payable in securities of other persons, evidences of indebtedness issued by the Company or other persons, assets (excluding cash dividends) or options or rights not referred to elsewhere in Section 5(e), then, in each such case for the purpose of this Section 5(e) and subject to Sections 3 and 4 hereof, the holders of the Preferred Stock shall be entitled to a proportionate share of any such distribution as though they were the holders of the number of shares of Common Stock of the Company into which their shares of Preferred Stock are convertible as of the record date fixed for the determination of the holders of Common Stock of the Company entitled to receive such distribution.

(ix) Adjustments for Reclassification, Exchange and Substitution. 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), the Conversion Price then in effect shall, concurrently with the effectiveness of such reorganization or reclassification, be proportionately adjusted such that the Preferred Stock shall be convertible into, in lieu of the number of shares of Common Stock which the holders would otherwise have been entitled to receive, a number of shares of such other class or classes of stock equivalent to the number of shares of Common Stock that would have been subject to receipt by the holders upon

conversion of the Preferred Stock immediately before that change, all subject to further adjustment as provided herein with respect to such other shares.

(f) No Impairment. The Company will not, by amendment of its Articles of Incorporation or through any reorganization, transfer of assets, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Company but will at all times in good faith assist in the carrying out of all the provisions of this Section 5 and in the taking of all such action as may be necessary or appropriate in order to protect the Conversion Rights of the holders of the Preferred Stock against impairment.

(g) Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of any Conversion Price pursuant to this Section 5, the Company 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 Company shall, upon the written request at any time of any holder of Preferred Stock, furnish or cause to be furnished to such holder a like certificate setting forth (i) such adjustments and readjustments, (ii) the Conversion Price at the time in effect, and (iii) the number of shares of Common Stock and the amount, if any, of other property which at the time would be received upon the conversion of Preferred Stock.

(h) Notices of Record Date. In the event that the Company shall propose at any time:

(i) to declare any dividend or 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 offer for subscription pro rata to the holders of any class or series of its stock any additional shares of stock of any class or series or other rights;

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

(iv) to merge or consolidate with or into any other company, or sell, lease or convey all or substantially all its property or business, or to liquidate, dissolve or wind up voluntarily or involuntarily, including any action deemed to be a Liquidation Event pursuant to Section 4(b) above;

then, in connection with each such event, the Company 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 dividend, distribution or subscription rights (and specifying the date on which the holders of Common Stock shall be entitled thereto) or for determining rights to vote in respect of the matters described in clauses (iii) and (iv) above, and the date that is to be fixed when holders of record of Common Stock or Convertible Securities (as defined above in Section 5(e)(1)(2)) shall be entitled to

exchange their shares of Common Stock or Convertible Securities for securities or other property deliverable as a result of matters described in clauses (iii) and (iv) above.

Each such written notice shall be given by first class mail, postage prepaid, addressed to the holders of Preferred Stock at the address for each such holder as shown on the books of the Company.

(i) Reservation of Stock Issuable Upon Conversion. The Company shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock solely for the purpose of effecting the conversion of 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 Company will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purpose; provided, however, that the Company shall not issue shares of Common Stock that are reserved for the purpose of effecting the conversion of the shares of Preferred Stock until the actual conversion of such shares.

6. No Redemption. No shares of Preferred Stock are redeemable.

7. Voting.

(a) Class Voting. Except as otherwise expressly provided herein or as required by law, the holders of Preferred Stock and the holders of Common Stock shall vote together and not as separate classes.

(b) Preferred Stock. Each holder of shares of Preferred Stock shall be entitled to the number of votes equal to the number of shares of Common Stock into which such shares of Preferred Stock held by such holder of Preferred Stock could then be converted pursuant to Section 5 hereof. 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. The holders of the Preferred Stock shall be entitled to notice of any shareholders' meeting in accordance with the Bylaws of the Company. 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.

(c) Common Stock. Each holder of shares of Common Stock shall be entitled to one vote for each share thereof held.

(d) Election of Directors. Subject to the operation of Section 7(d)(ii) below, the holders of the Series A-1 Preferred Stock and Series B-1 Preferred Stock, voting together as a single class, shall be entitled to elect two (2) directors, and to remove from office such directors and to fill any vacancy caused by the resignation, death or removal of such directors; the holders of the Series C-1 Preferred Stock, voting as a separate class, shall be entitled to elect one (1) director, and to remove from office such director and to fill any vacancy caused by the resignation, death or

removal of such director, the holders of Common Stock, voting as a separate class, shall be entitled to elect one (1) director, and to remove from office such director and to fill any vacancy caused by the resignation, death or removal of such director; and the holders of the Common Stock and the Preferred Stock, voting together as a single class, shall be entitled to elect one (1) director, and to remove from office such director and to fill any vacancy caused by the resignation, death or removal of such director.

8. Amendments and Changes.

(a) As long as any of the Preferred Stock shall be issued and outstanding, the Company shall not, directly or indirectly, by merger or otherwise, without first obtaining the approval (by vote or consent as provided by law) of the holders representing at least two thirds (2/3) of the shares of the Preferred Stock then outstanding:

(i) enter into or effect any Liquidation Event, including any action deemed to be a Liquidation Event pursuant to Section 4(b) above;

(ii) amend or repeal any provision of, or add any provision to, these Restated Articles of Incorporation or Bylaws if such action would alter or change the preferences, rights, privileges, or powers of, or the restrictions provided for the benefit of, any series of Preferred Stock;

(iii) increase or decrease (other than for decreases resulting from conversion of the Preferred Stock) the number of authorized shares of Common Stock or of any series of Preferred Stock;

(iv) authorize, create or issue shares of any class or series of stock or other securities having any preference or priority superior to or on a parity with the Preferred Stock, or authorize the reclassification of existing securities to be senior to or on a parity with the existing Preferred Stock;

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

(vi) declare or pay any dividends on the Common Stock or on any series of Preferred Stock;

(vii) increase or decrease the size of the Company's Board of Directors; or

(viii) permit any subsidiary of the Company to issue any equity securities other than to the Company or a wholly-owned subsidiary of the Company; or

(ix) amend this Section 8(a).

(b) The Company shall not, without first obtaining the approval (by vote or written consent as provided by law) of the holders representing at least a majority of the shares of the Series B-1 Preferred Stock then outstanding, voting separately as a series, enter into or effect any Liquidation Event, including any action deemed to be a Liquidation Event pursuant to Section 4(b) above.

(c) The Company shall not, without first obtaining the approval (by vote or written consent as provided by law) of the holders representing at least a majority of the shares of the Series C-1 Preferred Stock then outstanding, voting separately as a series, enter into or effect any Liquidation Event, including any action deemed to be a Liquidation Event pursuant to Section 4(b) above.

(d) The Company shall not, directly or indirectly, by merger or otherwise, without first obtaining the approval (by vote or consent as provided by law) of the holders representing at least two-thirds (2/3) of the shares of the Series C-1 Preferred Stock then outstanding:

(i) amend or waive any provision of these Restated Articles of Incorporation if such action would adversely alter or change the preferences, rights, privileges, or powers of, or the restrictions provided for the benefit of the Series C-1 Preferred Stock in a disparate manner relative to the effect of such amendments or waivers on the preferences, rights, privileges, or powers of, or the restrictions provided for the benefit of the Series A-1 Preferred Stock or Series B-1 Preferred Stock;

(ii) authorize, create or issue shares of any class or series of stock or other securities having any preference or priority superior to or on a parity with the Series C-1 Preferred Stock, if such action would affect the rights, preferences or privileges of the Series C-1 Preferred Stock in a disparate manner relative to the effect of such action on the rights, preferences or privileges of the Series A-1 Preferred Stock or Series B-1 Preferred Stock;

(iii) amend or waive any provision of the Company's Bylaws if such action would adversely alter or change the preferences, rights, privileges, or powers of, or the restrictions provided for the benefit of the Series C-1 Preferred Stock in a disparate manner relative to the effect of such amendments or waivers on the preferences, rights, privileges, or powers of, or the restrictions provided for the benefit of, the Series A-1 Preferred Stock or Series B-1 Preferred Stock; or

(iv) increase or decrease the size of the Company's Board of Directors.

9. Notices. Any notice required by the provisions of this Article THIRD 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 Company.

FOURTH (a) Limitation of Directors' Liability. The liability of the directors of the Company for monetary damages shall be eliminated to the fullest extent permissible under California law.

(b) Indemnification of Corporate Agents. The Company is authorized to provide indemnification of agents (as defined in Section 317 of the California Corporations Code) through bylaw provisions, agreements with agents, votes of shareholders or disinterested directors or otherwise, in excess of the indemnification otherwise permitted by Section 317 of the California Corporations Code, subject only to the applicable limits set forth in Section 204 of the California Corporations Code with respect to actions for breach of duty to the Company and its shareholders.

(c) Repeal or Modification. Any repeal or modification of the foregoing provisions of this Article FOURTH shall not adversely affect any right of indemnification or limitation of liability of an agent of the Company relating to acts or omissions occurring prior to such repeal or modification.

