

## PATENT ASSIGNMENT COVER SHEET

Electronic Version v1.1  
Stylesheet Version v1.2

EPAS ID: PAT6082024

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT
<b>NATURE OF CONVEYANCE:</b>	ASSIGNMENT
<b>CONVEYING PARTY DATA</b>	
<b>Name</b>	<b>Execution Date</b>
LARQ, LLC	04/12/2019
<b>RECEIVING PARTY DATA</b>	
<b>Name:</b>	LARQ INC.
<b>Street Address:</b>	3980 TRUST WAY
<b>City:</b>	HAYWARD
<b>State/Country:</b>	CALIFORNIA
<b>Postal Code:</b>	94545
<b>PROPERTY NUMBERS Total: 1</b>	
<b>Property Type</b>	<b>Number</b>
<b>Application Number:</b>	29732895
<b>CORRESPONDENCE DATA</b>	
<b>Fax Number:</b>	
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>	
<b>Phone:</b>	602-382-6228
<b>Email:</b>	IPDOCKET@swlaw.com, dmier@swlaw.com
<b>Correspondent Name:</b>	SNELL & WILMER L.L.P. (MAIN)
<b>Address Line 1:</b>	400 EAST VAN BUREN
<b>Address Line 2:</b>	ONE ARIZONA CENTER
<b>Address Line 4:</b>	PHOENIX, ARIZONA 85004-2202
<b>ATTORNEY DOCKET NUMBER:</b>	79590.00617
<b>NAME OF SUBMITTER:</b>	HOWARD SOBELMAN
<b>SIGNATURE:</b>	/Howard Sobelman/
<b>DATE SIGNED:</b>	04/28/2020
<b>Total Attachments: 25</b>	
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# Delaware


The First State

Page 1

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THAT THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF CONVERSION OF A DELAWARE LIMITED LIABILITY COMPANY UNDER THE NAME OF "LARQ, LLC" TO A DELAWARE CORPORATION, CHANGING ITS NAME FROM "LARQ, LLC" TO "LARQ, INC.", FILED IN THIS OFFICE ON THE TWELFTH DAY OF APRIL, A.D. 2019, AT 2:43 O`CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.



  
Jeffrey W. Bullock, Secretary of State

7261173 8100V  
SR# 20192795185

You may verify this certificate online at [corp.delaware.gov/authver.shtml](http://corp.delaware.gov/authver.shtml)

Authentication: 202635575  
Date: 04-12-19

**PATENT**  
**REEL: 052518 FRAME: 0974**

## CERTIFICATE OF CONVERSION

Of

**LARQ, LLC,**  
**a Delaware limited liability company**  
**converting to**

**LARQ, INC.,**  
**a Delaware corporation**

**(Pursuant to Section 265 of the General Corporation Law of the State of Delaware)**

LARQ, LLC, a limited liability company organized and existing under and by virtue of the Limited Liability Act of the State of Delaware, does hereby certify:

**FIRST:** That LARQ, LLC was originally formed on January 30, 2019 in the State of Delaware.

**SECOND:** That the name of the limited liability company immediately prior to the filing of this Certificate is LARQ, LLC.

**THIRD:** That LARQ, LLC does now desire to convert from a limited liability company to a corporation, pursuant to Section 265 of the General Corporation Law of the State of Delaware, to be named LARQ, Inc., as set forth in the Certificate of Incorporation filed with the Secretary of State of the State of Delaware contemporaneously herewith.

**FOURTH:** That, immediately upon the filing of (a) this Certificate of Conversion, and (b) the Certificate of Incorporation of LARQ, Inc. with the Office of the Secretary of State of the State of Delaware, (i) the membership interest of Preferred Shares held by RayVio Corporation, and all rights in respect thereof, shall, without any further action on the part of anyone, be canceled and extinguished and be converted into and represent the right to receive from LARQ, Inc., 157,828 shares of Junior Preferred Stock, par value \$0.0001 per share and (ii) each one (1) Common Share held by any member shall, without any further action on the part of anyone, be canceled and extinguished and be converted into and represent the right to receive from LARQ, Inc., one (1) share of Class B Common Stock, par value \$0.0001 per share. No other cash, shares, securities or obligations will be distributed or issued upon conversion of the membership interest of LARQ, LLC.

**IN WITNESS WHEREOF**, LARQ, LLC has caused this Certificate of Conversion to be executed as of the 12th day of April 2019.

**LARQ, LLC**

By: Justin Wang  
Justin Wang  
Chief Executive Officer

*LARQ, LLC Certificate of Conversion to LARQ, Inc.*

**PATENT**  
**REEL: 052518 FRAME: 0976**

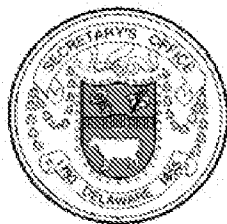
# Delaware


The First State

Page 1

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE DO HEREBY CERTIFY THAT THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF INCORPORATION OF "LARQ, INC." FILED IN THIS OFFICE ON THE TWELFTH DAY OF APRIL, A.D. 2019, AT 2:43 O`CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.



  
Jeffrey W. Bullock, Secretary of State

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Authentication: 202635575  
Date: 04-12-19

**PATENT**  
**REEL: 052518 FRAME: 0977**

**CERTIFICATE OF INCORPORATION**

**OF**

**LARQ, INC.**

**ARTICLE I**

The name of this corporation is LARQ, Inc.

**ARTICLE II**

The address of the registered office of this corporation in the State of Delaware is 1013 Centre Road, Suite 403-B, in the City of Wilmington, County of New Castle, 19805. The name of its registered agent at such address is Vcorp Services, LLC.

**ARTICLE III**

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

**ARTICLE IV**

A. Authorization of Stock. This corporation is authorized to issue two classes of stock to be designated, respectively, common stock and preferred stock. The total number of shares that this corporation is authorized to issue is 29,761,431. The total number of shares of common stock authorized to be issued is 27,050,500, par value \$0.0001 per share (the "**Common Stock**"), of which 5,050,500 shares are designated as "**Class A Common Stock**" and 22,000,000 shares are designated as "**Class B Common Stock**". The total number of shares of preferred stock authorized to be issued is 2,710,931, par value \$0.0001 per share (the "**Preferred Stock**"), of which 2,553,103 shares are designated as "**Series A Preferred Stock**" or "**Senior Preferred Stock**" and of which 157,828 shares are designated as "**Junior Preferred Stock**".

B. Rights, Preferences and Restrictions of Preferred Stock. The rights, preferences, privileges and restrictions granted to and imposed on the Preferred Stock are as set forth below in this Article IV(B).

1. Dividend Provisions.

(a) In each calendar year, the holders of the then outstanding Junior Preferred Stock shall be entitled to receive dividends, out of any assets of this corporation 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 this corporation) on the Common Stock and Senior Preferred Stock of this corporation, at the Annual Dividend Rate (as defined below) for such Junior Preferred Stock (the “**Annual Dividend**”). Such dividends shall be cumulative and shall accrue on each such share of Preferred Stock from the respective original date of issue of such share based on a three hundred sixty-five (365) day year, whether or not earned or declared. The holders of the outstanding Junior Preferred Stock can waive any dividend preference that such holders shall be entitled to receive under this subsection 1(a) upon the affirmative vote or written consent of the holders of a majority of the shares of Junior Preferred Stock then outstanding (voting together as a single class and not as separate series). For purposes of this subsection 1(a), “**Annual Dividend Rate**” shall mean \$1.29255 per annum for each share of Junior Preferred Stock (each as adjusted for any stock splits, combinations, subdivisions, recapitalizations or the like with respect to the Junior Preferred Stock).

(b) After payment of such dividends, any additional dividends or distributions shall be distributed among all holders of Common Stock and Senior Preferred Stock in proportion to the number of shares held by each, assuming all shares of Senior Preferred Stock were converted to Class B Common Stock at the then effective conversion rate.

## 2. Liquidation Preference.

(a) In the event of any Liquidation Event (as defined below), either voluntary or involuntary, the holders of each series of Senior Preferred Stock shall be entitled to receive out of the proceeds or assets of this corporation available for distribution to its stockholders (the “**Proceeds**”), prior and in preference to any distribution of the Proceeds of such Liquidation Event to the holders of Junior Preferred Stock and Common Stock by reason of their ownership thereof, an amount per share equal to the sum of the applicable Original Issue Price (as defined below) for such series of Senior Preferred Stock, plus declared but unpaid dividends on such share. If, upon the occurrence of such event, the Proceeds thus distributed among the holders of the Senior Preferred Stock shall be insufficient to permit the payment to such holders of the full aforesaid preferential amounts, then the entire Proceeds legally available for distribution shall be distributed ratably among the holders of the Senior Preferred Stock in proportion to the full preferential amount that each such holder is otherwise entitled to receive under this subsection (a). For purposes of this Certificate of Incorporation, “**Original Issue Price**” shall mean \$2.15424 per share for each share of the Series A Preferred Stock and \$32.31366 per share for each share of the Junior Preferred Stock (each as adjusted for any stock splits, combinations, subdivisions, recapitalizations or the like, if any, with respect to such series of Preferred Stock).

(b) Upon completion of the distribution of the full preferential amounts to the Senior Preferred Stock required by subsection (a) of this Section 2, if Proceeds remain available for distribution, the holders of Junior Preferred Stock shall be entitled to



receive, prior and in preference to any distribution of the Proceeds of such Liquidation Event to the holders of Common Stock by reason of their ownership thereof, an amount per share equal to the sum of three times (3x) the Original Issue Price for the Junior Preferred Stock, plus accrued but unpaid Annual Dividends on such share. If, upon the occurrence of such event, the Proceeds thus distributed among the holders of the Junior Preferred Stock shall be insufficient to permit the payment to such holders of the full aforesaid preferential amounts, then the entire Proceeds legally available for distribution shall be distributed ratably among the holders of the Junior Preferred Stock in proportion to the full preferential amount that each such holder is otherwise entitled to receive under this subsection (b).

(c) Upon completion of the distribution required by subsections (a) and (b) of this Section 2, all of the remaining Proceeds available for distribution to stockholder shall be distributed among the holders of Common Stock pro rata based on the number of shares of Common Stock pro rata based on the number of shares of Common Stock held by each.

(d) Notwithstanding subsection (a) above, for purposes of determining the amount each holder of shares of Senior Preferred Stock is entitled to receive with respect to a Liquidation Event, each such holder of shares of a series of Senior Preferred Stock shall be deemed to have converted (regardless of whether such holder actually converted) such holder's shares of such series into shares of Class B Common Stock immediately prior to the Liquidation Event if, as a result of an actual conversion, such holder would receive, in the aggregate, an amount greater than the amount that would be distributed to such holder if such holder did not convert such series of Senior Preferred Stock into shares of Class B Common Stock. If any such holder shall be deemed to have converted shares of Senior Preferred Stock into Class B Common Stock pursuant to this paragraph, then such holder shall not be entitled to receive any distribution that would otherwise be made to holders of Senior Preferred Stock that have not converted (or have not been deemed to have converted) into shares of Class B Common Stock.

(e)

(i) For purposes of this Section 2, a "**Liquidation Event**" shall include (A) the closing of the sale, transfer or other disposition of all or substantially all of this corporation's assets, (B) the consummation of the merger or consolidation of this corporation with or into another entity (except a merger or consolidation in which the holders of capital stock of this corporation immediately prior to such merger or consolidation continue to hold at least 50% of the voting power of the capital stock of this corporation or the surviving or acquiring entity), (C) the closing of the transfer (whether by merger, consolidation or otherwise), in one transaction or a series of related transactions, to a person or group of affiliated persons (other than an underwriter of this corporation's securities), of this corporation's securities if, after such closing, such person or group of affiliated persons would hold 50% or more of the outstanding voting stock of this corporation (or the surviving or acquiring entity) or (D) a liquidation, dissolution or winding up of this corporation; *provided, however*, that a transaction shall not constitute a Liquidation Event if its sole purpose is to change the state of this corporation's

incorporation or to create a holding company that will be owned in substantially the same proportions by the persons who held this corporation's securities immediately prior to such transaction. Notwithstanding the prior sentence, the sale of shares of the Company's equity securities in a bona fide financing transaction shall not be deemed a "**Liquidation Event.**" The treatment of any particular transaction or series of related transactions as a Liquidation Event may be waived by the vote or written consent of the holders of a majority of the outstanding Senior Preferred Stock (voting together as a single class and not as separate series, and on an as-converted basis).

(ii) In any Liquidation Event, if Proceeds received by this corporation or its stockholders is other than cash, its value will be deemed its fair market value. Any securities shall be valued as follows:

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

(1) If traded on a securities exchange, the value shall be deemed to be the average of the closing prices of the securities on such exchange over the twenty (20) trading-day period ending three (3) trading days prior to the closing of the Liquidation Event;

(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 twenty (20) trading-day period ending three (3) trading days prior to the closing of the Liquidation Event; and

(3) If there is no active public market, the value shall be the fair market value thereof, as determined in good faith by the Board of Directors.

(B) The method of valuation of securities subject to investment letter or other restrictions on free marketability (other than restrictions arising solely by virtue of a stockholder's status as an affiliate or former affiliate) shall be to make an appropriate discount from the market value determined as above in (A) (1), (2) or (3) to reflect the approximate fair market value thereof, as determined in good faith by the Board of Directors.

(C) The foregoing methods for valuing non-cash consideration to be distributed in connection with a Liquidation Event shall, with the appropriate approval of the definitive agreements governing such Liquidation Event by the stockholders under the General Corporation Law and Section 6 of this Article IV(B), be superseded by the determination of such value set forth in the definitive agreements governing such Liquidation Event.

(iii) In the event the requirements of this Section 2 are not complied with, this corporation shall cause the closing of such Liquidation Event to be postponed until such time as the requirements of this Section 2 have been complied with.

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

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

(a) Right to Convert. Each share of Senior 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 this corporation or any transfer agent for such stock, into such number of fully paid and nonassessable shares of Class B Common Stock as is determined by dividing the applicable Original Issue Price for such series by the applicable Conversion Price for such series (the conversion rate for a series of Senior Preferred Stock into Class B Common Stock is referred to herein as the “**Conversion Rate**” for such series), determined as hereafter provided, in effect on the date the certificate is surrendered for conversion. The initial Conversion Price per share for each series of Senior Preferred Stock shall be the Original Issue Price applicable to such series; *provided, however*, that the Conversion Price for the Senior Preferred Stock shall be subject to adjustment as set forth in subsection 4(d). Each share of Junior Preferred Stock shall be convertible into 1.19876 fully paid and nonassessable shares of Class B Common Stock (the “**Junior Preferred Conversion Shares**”) only with the approval by vote or written consent of (i) the Board of Directors and (ii) the holders of at least ten percent (10%) of the outstanding shares of Junior Preferred Stock. The holders of Junior Preferred Stock may not convert their shares of Junior Preferred Stock into Class B Common Stock at their option.

(b) Automatic Conversion. Each share of (i) Junior Preferred Stock shall automatically be converted into Junior Preferred Conversion Shares and (ii) Senior Preferred Stock shall automatically be converted into shares of Series B Common Stock at the Conversion Rate at the time in effect for such series of Senior Preferred Stock immediately upon the earlier of (x) the closing of this corporation’s sale of its Common Stock in a firm commitment underwritten public offering pursuant to a registration statement on Form S-1 under the Securities Act of 1933, as amended, the public offering price of which was not less than \$30,000,000 in the aggregate (a “**Qualified Public Offering**”) or (y) the date, or the occurrence of an event, specified by vote or written consent or agreement of the holders of a majority of the then outstanding shares of Senior Preferred Stock (voting together as a single class and not as separate series, and on an as-converted basis).

(c) Mechanics of Conversion. Before any holder of Preferred Stock shall be entitled to voluntarily convert the same into shares of Class B Common Stock, he or she shall surrender the certificate or certificates therefor, duly endorsed, at the office of this corporation or of any transfer agent for the Preferred Stock, and shall give written notice to this corporation at its principal corporate office, of the election to convert the same and shall state therein the name or names in which the certificate or certificates for shares of Class B Common Stock are to be issued. This corporation shall, as soon as practicable thereafter, issue and deliver at such office to such holder of Preferred Stock, or to the nominee or nominees of such holder, a certificate or certificates for the number of shares of Class B Common Stock to which such holder shall be entitled as aforesaid. Such

conversion shall be deemed to have been made immediately prior to the close of business on the date set forth for conversion in the written notice of the election to convert irrespective of the surrender of the shares of Preferred Stock to be converted, and the person or persons entitled to receive the shares of Class B Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Class B Common Stock as of such date. If the conversion is in connection with an underwritten offering of securities registered pursuant to the Securities Act of 1933, as amended, the conversion may, at the option of any holder tendering Preferred Stock for conversion, be conditioned upon the closing with the underwriters of the sale of securities pursuant to such offering, in which event the persons entitled to receive the Class B Common Stock upon conversion of the Preferred Stock shall not be deemed to have converted such Preferred Stock until immediately prior to the closing of such sale of securities. If the conversion is in connection with Automatic Conversion provisions of subsection 4(b)(y) above, such conversion shall be deemed to have been made on the conversion date described in the stockholder consent approving such conversion, and the persons entitled to receive shares of Class B Common Stock issuable upon such conversion shall be treated for all purposes as the record holders of such shares of Class B Common Stock as of such date.

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

(i)

(A) If this corporation shall issue, on or after the date upon which this Certificate of Incorporation is accepted for filing by the Secretary of State of the State of Delaware (the “**Filing Date**”), any Additional Stock (as defined below) without consideration or for a consideration per share less than the Conversion Price applicable to a series of Senior Preferred Stock in effect immediately prior to the issuance of such Additional Stock, the Conversion Price for such series in effect immediately prior to each such issuance shall forthwith (except as otherwise provided in this clause (i)) be adjusted to a price (calculated to the nearest one-thousandth of a cent) determined by multiplying such Conversion Price by a fraction, the numerator of which shall be the number of shares of Common Stock Outstanding (as defined below) immediately prior to such issuance plus the number of shares of Common Stock that the aggregate consideration received by this corporation for such issuance would purchase at such Conversion Price; and the denominator of which shall be the number of shares of Common Stock Outstanding (as defined below) immediately prior to such issuance plus the number of shares of such Additional Stock. For purposes of this Section 4(d)(i)(A), the term “**Common Stock Outstanding**” shall mean and include the following: (1) outstanding Common Stock, (2) Class B Common Stock issuable upon conversion of outstanding Preferred Stock, (3) Common Stock issuable upon exercise of outstanding stock options and (4) Common Stock issuable upon exercise (and, in the case of warrants to purchase Senior Preferred Stock, conversion) of outstanding warrants. Shares described in (1) through (4) above shall be included whether

vested or unvested, whether contingent or non-contingent and whether exercisable or not yet exercisable. In the event that this corporation issues or sells, or is deemed to have issued or sold, shares of Additional Stock that results in an adjustment to a Conversion Price pursuant to the provisions of this Section 4(d) (the “**First Dilutive Issuance**”), and this corporation then issues or sells, or is deemed to have issued or sold, shares of Additional Stock in a subsequent issuance other than the First Dilutive Issuance that would result in further adjustment to a Conversion Price (a “**Subsequent Dilutive Issuance**”) pursuant to the same instruments as the First Dilutive Issuance, then and in each such case upon a Subsequent Dilutive Issuance the applicable Conversion Price for each series of Senior Preferred Stock shall be reduced to the applicable Conversion Price that would have been in effect had the First Dilutive Issuance and each Subsequent Dilutive Issuance all occurred on the closing date of the First Dilutive Issuance.

(B) No adjustment of the Conversion Price for the Senior Preferred Stock shall be made in an amount less than one-tenth of one cent per share. Except to the limited extent provided for in subsections (E)(3) and (E)(4), no adjustment of such Conversion Price pursuant to this subsection 4(d)(i) shall have the effect of increasing the Conversion Price above the Conversion Price in effect immediately prior to such adjustment.

(C) In the case of the issuance of Additional 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 this corporation for any underwriting or otherwise in connection with the issuance and sale thereof.

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

(E) In the case of the issuance of options to purchase or rights to subscribe for Common Stock, securities by their terms convertible into or exchangeable for Common Stock or options to purchase or rights to subscribe for such convertible or exchangeable securities, the following provisions shall apply for purposes of determining the number of shares of Additional Stock issued and the consideration paid therefor:

(1) The aggregate maximum number of shares of Common Stock deliverable upon exercise (assuming the satisfaction of any conditions to exercisability, including without limitation, the passage of time, but without taking into account potential antidilution adjustments) of such options to purchase or rights to subscribe for Common Stock shall be deemed to have been issued at the time such options or rights were issued and for a consideration equal to the consideration (determined in the manner provided in subsections 4(d)(i)(C) and (d)(i)(D)), if any, received by this corporation upon the issuance of such options

or rights plus the minimum exercise price provided in such options or rights (without taking into account potential antidilution adjustments) for the Common Stock covered thereby.

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

(3) In the event of any change in the number of shares of Common Stock deliverable or in the consideration payable to this corporation upon exercise of such options or rights or upon conversion of or in exchange for such convertible or exchangeable securities, the Conversion Price of the Senior Preferred Stock, to the extent in any way affected by or computed using such options, rights or securities, shall be recomputed to reflect such change, but no further adjustment shall be made for the actual issuance of Common Stock or any payment of such consideration upon the exercise of any such options or rights or the conversion or exchange of such securities.

(4) Upon the expiration of any such options or rights, the termination of any such rights to convert or exchange or the expiration of any options or rights related to such convertible or exchangeable securities, the Conversion Price of the Senior Preferred Stock, to the extent in any way affected by or computed using such options, rights or securities or options or rights related to such securities, shall be recomputed to reflect the issuance of only the number of shares of Common Stock (and convertible or exchangeable securities that remain in effect) actually issued upon the exercise of such options or rights, upon the conversion or exchange of such securities or upon the exercise of the options or rights related to such securities.

(5) The number of shares of Additional Stock deemed issued and the consideration deemed paid therefor pursuant to subsections 4(d)(i)(E)(1) and (2) shall be appropriately adjusted to reflect any change, termination or expiration of the type described in either subsection 4(d)(i)(E)(3) or (4).

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

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

(B) Shares of Common Stock issued to employees, directors, consultants and other service providers for the primary purpose of soliciting or retaining their services pursuant to plans or agreements approved by this corporation’s Board of Directors;

(C) Common Stock issued pursuant to an underwritten public offering;

(D) Common Stock issued pursuant to the conversion or exercise of convertible or exercisable securities outstanding on the Filing Date;

(E) Common Stock issued in connection with a bona fide business acquisition by this corporation, whether by merger, consolidation, sale of assets, sale or exchange of stock or otherwise;

(F) Common Stock issued or deemed issued pursuant to subsection 4(d)(i)(E) as a result of a decrease in the Conversion Price of any series of Senior Preferred Stock resulting from the operation of Section 4(d);

(G) Class B Common Stock issued upon conversion of the Series A Preferred Stock;

(H) Class B Common Stock issued upon conversion of the Class A Common Stock;

(I) Shares of Common Stock issued pursuant to any equipment leasing arrangement or debt financing arrangement, which arrangement is approved by the Board of Directors including the approval of the Senior Preferred Director, and is primarily for non-equity financing purposes;

(J) Common Stock issued to persons or entities with which this corporation has business relationships, provided such issuances are approved by the Board of Directors including the approval of the Senior Preferred Director, and are primarily for non-equity financing purposes; or

(K) Common Stock that is issued with the unanimous approval of the Board of Directors of this corporation and the Board specifically states that it shall not be Additional Stock.

(iii) In the event this corporation should at any time or from time to time after the Filing Date fix a record date for the effectuation of a split or subdivision

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

(iv) If the number of shares of Class B Common Stock outstanding at any time after the Filing Date is decreased by a combination of the outstanding shares of Class B Common Stock, then, following the record date of such combination, the Conversion Price for the Preferred Stock shall be appropriately increased so that the number of shares of Class B Common Stock issuable on conversion of each share of such series shall be decreased in proportion to such decrease in outstanding shares.

(e) Other Distributions. In the event this corporation shall declare a distribution payable in securities of other persons, evidences of indebtedness issued by this corporation or other persons, assets (excluding cash dividends) or options or rights not referred to in subsection 4(d)(iii), then, in each such case for the purpose of this subsection 4(e), the holders of the Senior 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 Class B Common Stock of this corporation into which their shares of Senior Preferred Stock are convertible as of the record date fixed for the determination of the holders of Common Stock of this corporation entitled to receive such distribution.

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



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

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

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

(h) Notices of Record Date. In the event of any taking by this corporation of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend (other than a cash dividend) or other distribution, this corporation shall mail to each holder of Senior Preferred Stock, at least ten (10) days prior to the date specified therein, a notice specifying the date on which any such record is to be taken for the purpose of such dividend or distribution, and the amount and character of such dividend or distribution.

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

(j) Waiver of Adjustment to Conversion Price. Notwithstanding anything herein to the contrary, any downward adjustment of the Conversion Price of any series of Senior Preferred Stock may be waived, either prospectively or retroactively and either generally or in a particular instance, by the consent or vote of the holders of a majority of the outstanding shares of such series of Senior Preferred Stock. Any such waiver shall bind all future holders of shares of such series of Senior Preferred Stock.

5. Voting Rights.

(a) General Voting Rights. The holder of each share of Senior Preferred Stock shall have the right to one vote for each share of Class B Common Stock into which such Senior Preferred Stock could then be converted, and with respect to such vote, such holder shall have full voting rights and powers equal to the voting rights and powers of the holders of Class B Common Stock, and shall be entitled, notwithstanding any provision hereof, to notice of any stockholders' meeting in accordance with the Bylaws of this corporation, and except as provided by law or in subsection 5(b) below with respect to the election of directors by the separate class vote of the holders of Common Stock, shall be entitled to vote, together with holders of Common Stock, with respect to any question upon which holders of Common Stock have the right to vote. Fractional votes shall not, however, be permitted and any fractional voting rights available on an as-converted basis (after aggregating all shares into which shares of Series A Preferred Stock held by each holder could be converted) shall be rounded to the nearest whole number (with one-half being rounded upward).

(b) Voting for the Election of Directors. As long as at least 639,000 shares of Series A Preferred Stock remain outstanding, the holders of such shares of Series A Preferred Stock shall be entitled to elect one (1) director of this corporation at any election of directors (the "Senior Preferred Director"). The holders of outstanding Class A Common Stock shall be entitled to elect one (1) director of this corporation at any election of directors (the "Class A Common Director"). The holders of Class B Common Stock shall be entitled to elect two (2) directors of this corporation at any election of directors (the "Class B Common Directors"). The holders of outstanding Common Stock, voting together as a separate class, on an as-converted basis, shall be entitled to elect one (1) director of this corporation at any election of directors (the "Mutual Common Director").

Notwithstanding the provisions of Section 223(a)(1) and 223(a)(2) of the General Corporation Law, any vacancy, including newly created directorships resulting from any increase in the authorized number of directors or amendment of this Certificate of Incorporation, and vacancies created by removal or resignation of a director, may be filled by a majority of the directors then in office, though less than a quorum, or by a sole remaining director, and the directors so chosen shall hold office until the next annual election and until their successors are duly elected and shall qualify, unless sooner displaced; *provided, however*, that where such vacancy occurs among the directors elected by the holders of a class or series of stock, the holders of shares of such class or series may override the Board's action to fill such vacancy by (i) voting for their own designee to fill such vacancy at a meeting of this corporation's stockholders or (ii) written consent, if the consenting stockholders hold a sufficient number of shares to elect their designee at a meeting of the stockholders. Any director may be removed during his or her term of

office, either with or without cause, by, and only by, the affirmative vote of the holders of the shares of the class or series of stock entitled to elect such director or directors, given either at a special meeting of such stockholders duly called for that purpose or pursuant to a written consent of stockholders, and any vacancy thereby created may be filled by the holders of that class or series of stock represented at the meeting or pursuant to written consent.

6. Protective Provisions. So long as at least 639,000 shares of Series A Preferred Stock remain outstanding, this corporation shall not (by amendment, merger, consolidation or otherwise) without (in addition to any other vote required by law or the Certificate of Incorporation) first obtaining the approval by vote or written consent, as provided by law, of the holders of a majority of the then outstanding shares of Series A Preferred Stock (voting on an as-converted basis):

(a) consummate a Liquidation Event or effect any other merger or consolidation;

(b) amend, alter or repeal any provision of this corporation's Certificate of Incorporation or Bylaws so as to adversely alter or change the powers, preferences or special rights of the shares of the Series A Preferred Stock;

(c) increase or decrease (other than by redemption or conversion) the total number of authorized shares of Common Stock or Preferred Stock or designated shares of any series of Preferred Stock;

(d) authorize or issue any equity security (including any other security convertible into or exercisable for any such equity security) having a preference over, or being on a parity with, any series of Preferred Stock with respect to dividends, liquidation or redemption, other than the issuance of any authorized but unissued shares of Series A Preferred Stock designated in this Certificate of Incorporation (including any security convertible into or exercisable for such shares of Preferred Stock);

(e) 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 from employees, officers, directors, consultants or other persons performing services for this corporation or any subsidiary pursuant to agreements under which this corporation has the option to repurchase such shares upon the occurrence of certain events, such as the termination of employment or service, or pursuant to a right of first refusal;

(f) change the authorized number of directors of this corporation;

(g) pay or declare any dividend on any shares of capital stock of this corporation; or

(h) create, or hold capital stock in, any subsidiary that is not wholly owned (either directly or through one or more other subsidiaries) by this corporation, or sell, transfer or otherwise dispose of any capital stock of any direct or indirect subsidiary

of this corporation, or permit any direct or indirect 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.

7. Status of Converted Stock. In the event any shares of Preferred Stock shall be converted pursuant to Section 4 hereof, the shares so converted shall be cancelled and shall not be issuable by this corporation. The Certificate of Incorporation of this corporation shall be appropriately amended to effect the corresponding reduction in this corporation's authorized capital stock.

8. Notices. Any notice required by the provisions of this Article IV(B) to be given to the holders of shares of Preferred Stock shall be deemed given (i) if deposited in the United States mail, postage prepaid, and addressed to each holder of record at his, her or its address appearing on the books of this corporation, (ii) if such notice is provided by electronic transmission in a manner permitted by Section 232 of the General Corporation Law, or (iii) if such notice is provided in another manner then permitted by the General Corporation Law.

C. Common Stock. The rights, preferences, privileges and restrictions granted to and imposed on the Common Stock are as set forth below in this Article IV(C).

1. Dividend Rights. Subject to the prior rights of holders of all classes of stock at the time outstanding having prior rights as to dividends, the holders of the Common Stock shall be entitled to receive, when, as and if declared by the Board of Directors, out of any assets of this corporation legally available therefor, any dividends as may be declared from time to time by the Board of Directors.

2. Liquidation Rights. Upon the liquidation, dissolution or winding up of this corporation, the assets of this corporation shall be distributed as provided in Section 2 of Article IV(B) hereof.

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

4. Voting Rights. Except as otherwise provided herein or by applicable law, the holders of the Class A Common Stock and the holders of the Class B Common Stock shall at all times vote together as one class on all matters (including the election of directors) submitted to a vote or for the consent of the stockholders of the corporation. The holder of each share of Common Stock shall have the right to one vote for each such share, and shall be entitled to notice of any stockholders' meeting in accordance with the Bylaws of this corporation, and shall be entitled to vote upon such matters and in such manner as may be provided by law; *provided, however,* until such time as any share of the Series A Preferred Stock is issued and outstanding, the number of votes allocated to each share of Class A Common Stock shall be proportionately reduced such that the total number of votes allocated to the Class A Common Stock in the aggregate equals 20% of the total number of votes of all shares of capital stock of the Corporation entitled to vote on such matter (on an as-converted basis), and the holders of Junior Preferred Stock and the Class B Common Stock and any other then outstanding class of voting stock, if any, other than the Class A Common Stock shall have their percentage voting power collectively increased

to 80% of the total number of votes for all shares of capital stock of the Corporation entitled to vote on such matter, with each share having a number of votes allocated in relation to the percentage of the total outstanding voting power that such share would otherwise possess (on an as-converted basis) unless, absent this proviso, the total number of votes allocated to the Class A Common Stock in the aggregate would be 20% or less than the total number of votes of all shares of capital stock of the corporation entitled to vote on such matter (on an as-converted basis) in which case there shall be no adjustment to the voting power of any class of capital stock of the corporation; and *provided, further*, that, except as otherwise required by law, holders of Common Stock, as such, shall not be entitled to vote on any amendment to the Certificate of Incorporation that relates solely to the terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together with the holders of one or more other such series, to vote thereon pursuant to the Certificate of Incorporation or pursuant to the General Corporation Law. The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority of the stock of this corporation entitled to vote, irrespective of the provisions of Section 242(b)(2) of the General Corporation Law.

5. Subdivision or Combinations. If the corporation in any manner subdivides or combines the outstanding shares of one class of Common Stock, then the outstanding shares of the other class of Common Stock shall be subdivided or combined in the same manner.

6. Mergers, Consolidation or Other Combination Transactions. In the event that this corporation enters into any Liquidation Event or other transaction or series of related transactions in which shares of Common Stock are exchanged for or converted into other stock or securities, or the right to receive cash or any other property, then, and in such event, the shares of Class A Common Stock and Class B Common Stock shall be entitled to be exchanged for or converted into the same kind and amount of stock, securities, cash or any other property, as the case may be, into which or for which each share of the other class of Common Stock is exchanged or converted; provided, however, that if the stock or securities of the resulting entity issued upon such exchange or conversion of the shares of Common Stock outstanding immediately prior to such Liquidation Event or other transaction would represent at least a majority of the voting power of such resulting entity (without giving effect to any differences in the voting rights of the stock or securities of the resulting entity to be received by the holders of shares of Class A Common Stock and the holders of Class B Common Stock), then the holders of shares of Class A Common Stock and the holders of shares of Class B Common Stock shall be entitled to receive stock or securities of the resulting entity issuable upon such exchange or conversion that differ with respect to voting rights in a similar manner to which the shares of Class A Common Stock and Class B Common Stock differ under this Certificate of Incorporation as provided under Section 4 of this Article IV(C).

7. Equal Status. Except as expressly provided in this Article IV, Class A Common Stock and Class B Common Stock shall have the same rights and privileges and rank equally, share ratably and be identical in all respects as to all matters.

8. Conversion.

(a) **Certain Definitions.** As used in this Section 8, the following terms shall have the following meanings:

(i) **“Class A Stockholder”** shall mean any individual that is issued Class A Common Stock by this corporation.

(ii) **“Permitted Entity”** shall mean, with respect to any Class A Stockholder, any trust, account, plan, corporation, partnership, or limited liability company specified in Section First:IVC.8(b) established by or for such Class A Stockholder, so long as such entity meets the requirements set forth in Section First:IVC.8(b), or any stockholder, member, partner or other equity holder of any Class A Stockholder.

(iii) **“Transfer”** shall mean, with respect to a share of Class A Common Stock, any sale, assignment, transfer, conveyance, hypothecation or other transfer or disposition of such share or any legal or beneficial interest in such share, whether or not for value and whether voluntary or involuntary or by operation of law.

(b) **Optional Conversion.** Each share of Class A Common Stock shall be convertible into one (1) fully paid and nonassessable share of Class B Common Stock at the option of the holder thereof at any time upon written notice to the transfer agent of this corporation.

(c) **Automatic Conversion upon Transfer.** Each share of Class A Common Stock shall automatically, without any further action, convert into one (1) fully paid and nonassessable share of Class B Common Stock upon the Transfer of such share; provided, however, that a Transfer of Class A Common Stock by a Class A Stockholder or such Class A Stockholder’s Permitted Entities to another Class A Stockholder or such Class A Stockholder’s Permitted Entities shall not trigger such automatic conversion; provided further, however, that a Transfer by a Class A Stockholder to any of the following Permitted Entities, and from any of the following Permitted Entities back to such Class A Stockholder and/or any other Permitted Entity by or for such Class A Stockholder shall not trigger such automatic conversion:

(i) a trust for the benefit of such Class A 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 the Class A Stockholder and, provided, further, that in the event such Class A Stockholder is no longer the exclusive beneficiary of such trust, each share of Class A Common Stock then held by such trust shall automatically convert into one (1) fully paid and nonassessable share of Class B Common Stock;

(i) a trust for the benefit of persons other than the Class A Stockholder, provided such Transfer does not involve any payment of cash, securities, property or other consideration (other than an interest in such trust) to the Class A Stockholder;

(ii) a trust under the terms of which such Class A Stockholder has retained a “qualified interest” within the meaning of §2702(b)(1) of the Internal Revenue Code (the “**Code**”) and/or a reversionary interest;

(iii) 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 A Stockholder is a participant or beneficiary and which satisfies the requirements for qualification under Section 401 of the Code;

(iv) a corporation in which such Class A Stockholder directly, or indirectly through one or more Permitted Entities, owns a majority of the shares or otherwise has legally enforceable rights;

(v) a partnership in which such Class A Stockholder directly, or indirectly through one or more Permitted Entities, owns a majority of the partnership interests or otherwise has legally enforceable rights; or

(vi) a limited liability company in which such Class A Stockholder directly, or indirectly through one or more Permitted Entities, owns a majority of the membership interests in the limited liability company, or otherwise has legally enforceable rights.

(b) Effect of Conversion. In the event of a conversion of shares of Class A Common Stock to shares of Class B Common Stock pursuant to this Section 8, such conversion shall be deemed to have been made at the time that this corporation's transfer agent receives the written notice required pursuant to Section First:IVC.8(a)(iii), the time that the Transfer of such shares occurred or the death of the Class A Stockholder, as applicable. Upon any conversion of Class A Common Stock to Class B Common Stock, all rights of the holder of such shares of Class A Common Stock shall cease and the person or persons in whose names or names the certificate or certificates representing the shares of Class A Common Stock are to be issued, if any, shall be treated for all purposes as having become the record holder or holders of such number of shares of Class B Common Stock into which such Class A Common Stock were convertible. Shares of Class A Common Stock that are converted into shares of Class B Common Stock as provided in this Section 8 shall be retired and shall not be reissued.

(c) Reservation of Stock. This corporation shall at all times reserve and keep available out of its authorized but unissued shares of Class B Common Stock, solely for the purpose of effecting the conversion of the shares of Class A Common Stock, such number of its shares of Class B Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of Class A Common Stock into shares of Class B Common Stock.

9. Adjustment in Authorized Class B Common Stock. The number of authorized shares of Class B Common Stock may be increased or decreased (but not below the number of shares of Class B Common Stock then outstanding) by an affirmative vote of the holders of a majority of the voting power of this corporation, irrespective of the provisions of Section 242(b)(2) of the General Corporation Law.

10. Administration. This corporation may, from time to time, establish such policies and procedures relating to the conversion of the Class A Common Stock to Class B Common Stock and the general administration of this dual class Common Stock structure, including the issuance of stock certificates with respect thereto, as it may deem necessary or

advisable, and may request that holders of shares of Class A Common Stock furnish affidavits or other proof to this corporation as it deems necessary to verify the ownership of Class A Common Stock and to confirm that a conversion to Class B Common Stock has not occurred.

#### **ARTICLE V**

Except as otherwise provided in this Certificate of Incorporation, in furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized to make, repeal, alter, amend and rescind any or all of the Bylaws of this corporation.

#### **ARTICLE VI**

The number of directors of this corporation shall be determined in the manner set forth in the Bylaws of this corporation.

#### **ARTICLE VII**

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

#### **ARTICLE VIII**

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

#### **ARTICLE IX**

A director of this corporation shall not be personally liable to this corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to this corporation or its stockholders, (ii) for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the General Corporation Law, or (iv) for any transaction from which the director derived any improper personal benefit. If the General Corporation Law is amended after approval by the stockholders of this Article IX to authorize corporate action further



eliminating or limiting the personal liability of directors, then the liability of a director of this corporation shall be eliminated or limited to the fullest extent permitted by the General Corporation Law as so amended.

Any amendment, repeal or modification of the foregoing provisions of this Article IX by the stockholders of this corporation shall not adversely affect any right or protection of a director of this corporation existing at the time of, or increase the liability of any director of this corporation with respect to any acts or omissions of such director occurring prior to, such amendment, repeal or modification.

## ARTICLE X

This corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

## ARTICLE XI

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

Any amendment, repeal or modification of the foregoing provisions of this Article XI shall not adversely affect any right or protection of a director, officer, employee, agent or other person existing at the time of, or increase the liability of any such person with respect to any acts or omissions of such person occurring prior to, such amendment, repeal or modification.

## ARTICLE XII

This corporation renounces any interest or expectancy of this corporation in, or in being offered an opportunity to participate in, 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, (i) any director of this corporation who is not an employee of this corporation or any of its subsidiaries, or (ii) any holder of Preferred Stock or any partner, member, director, stockholder, employee or agent of any such holder, other than someone who is an employee of this 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 solely in such Covered Person's capacity as a director of this corporation.

### **ARTICLE XIII**

In connection with repurchases by this corporation of its Common Stock from employees, officers, directors, advisors, consultants or other persons performing services for this corporation or any subsidiary pursuant to agreements under which this corporation has the option to repurchase such shares at cost upon the occurrence of certain events, such as the termination of employment, Section 500 of the California Corporations Code shall not apply in all or in part with respect to such repurchases. In the case of any such repurchases, distributions by the corporation may be made without regard to the "preferential dividends arrears amount" or any "preferential rights amount," as such terms are defined in Section 500(b) of the California Corporations Code.

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**IN WITNESS WHEREOF**, this Certificate of Incorporation has been executed by the incorporator of this corporation on this 12th day of April, 2019.

/s/ Justin Wang  
Justin Wang, Incorporator

Address: 3980 Trust Way  
Hayward, CA 94545

**SIGNATURE PAGE TO CERTIFICATE OF INCORPORATION**

**RECORDED: 04/28/2020**

**PATENT  
REEL: 052518 FRAME: 0998**