

JAN 25 2013

FILE NO. F-1820686.6

DO NOT WRITE ABOVE THIS LINE; RESERVED FOR ACC USE ONLY.

**APPLICATION FOR AUTHORITY
TO TRANSACT BUSINESS OR CONDUCT AFFAIRS IN ARIZONA**
Read the Instructions C018i

1. ENTITY TYPE - check only one to indicate the type of entity applying for authority:

- | | |
|--|--|
| <input checked="" type="checkbox"/> FOR-PROFIT CORPORATION | <input type="checkbox"/> INSURER |
| <input type="checkbox"/> NONPROFIT CORPORATION | <input type="checkbox"/> SAVINGS AND LOAN ASSOCIATION |
| <input type="checkbox"/> PROFESSIONAL CORPORATION | <input type="checkbox"/> CREDIT UNION |
| <input type="checkbox"/> CLOSE CORPORATION | <input type="checkbox"/> TRUST COMPANY |
| <input type="checkbox"/> BUSINESS TRUST | <input type="checkbox"/> COOPERATIVE MARKETING ASSOCIATION |
| <input type="checkbox"/> BUSINESS DEVELOPMENT CORP. | <input type="checkbox"/> ELECTRIC COOPERATIVE NON-PROFIT MEMBERSHIP ASSOC. |
| <input type="checkbox"/> CORPORATION SOLE | <input type="checkbox"/> NONPROFIT ELEC. GENERATION AND TRANSMISSION COOPERATIVE CORP. |

2. NAME IN STATE OR COUNTRY OF INCORPORATION (FOREIGN NAME) - enter the exact, true name of the foreign corporation:

Global Physics Solutions, Inc.

3. NAME TO BE USED IN ARIZONA (ENTITY NAME) - see Instructions C018i - identify the name the foreign corporation will use in Arizona by checking 3.1, 3.2, or 3.3 (check only one), and follow instructions

- | | | |
|---|---|---|
| <p>3.1 <input type="checkbox"/> Name in state or country of incorporation, with no changes - Go to number 4.</p> | <p>3.2 <input type="checkbox"/> Name in state or country of incorporation, with a corporate identifier added to it - Enter the name in number 3.4 below.</p> | <p>3.3 <input type="checkbox"/> Fictitious name (check this only if the foreign corporation's name in its state or country of incorporation is not available for use in Arizona) - Enter the name in number 3.4 below.</p> |
|---|---|---|

3.4 If you checked 3.2 or 3.3, enter or print the name to be used in Arizona:

4. FOREIGN DOMICILE - list the state or country in which the foreign corporation is incorporated: Delaware

5. DATE OF INCORPORATION IN FOREIGN DOMICILE: 01/15/2008

6. DURATION - the duration or life period of the foreign corporation is presumed to be perpetual unless one of the boxes is checked below and the blanks are filled in:

- ☐ The corporation's life period will end after the expiration of _____ years (enter a number of years).
- ☐ The corporation's life period will end on this date _____ (enter a date).
- ☐ The corporation's life period will end upon the occurrence of this event:

_____ (describe an event).

7. PURPOSE - the foreign corporation's purpose is to engage in any or all lawful business or affairs in which corporations may engage in the state or country under whose law the foreign corporation is incorporated, subject to the following limitations, if any (leave this blank if there are no limitations on the corporation's purpose):

8. **CHARACTER OF BUSINESS** – briefly describe the character of business or affairs the foreign corporation initially intends to conduct in Arizona. NOTE that the character of business or affairs that the foreign corporation ultimately conducts is not limited by the description provided.

Medical Physics Services

9. PRINCIPAL OFFICE ADDRESS - FOREIGN DOMICILE STREET ADDRESS – see <i>Instructions C018</i> ! – give the physical or street address (not a P. O. Box) of the foreign corporation required to be maintained in its state or country of incorporation, or, if not so required, of the foreign corporation's statutory agent in its state or country of incorporation:			10. ARIZONA KNOWN PLACE OF BUSINESS ADDRESS: Is the Arizona known place of business street address the same as the street address of the statutory agent? <input checked="" type="checkbox"/> Yes - go to number 11 and continue. <input type="checkbox"/> No - provide the Arizona physical or street address (not a P.O. Box) below:		
Attention (optional) 1209 Orange St.			Attention (optional)		
Address 1			Address 1		
Address 2 (optional)			Address 2 (optional)		
City	State	Zip	City	State	Zip
Wilmington	DE	19801			

11. STATUTORY AGENT IN ARIZONA – see <i>Instructions C018</i> !					
11.1 REQUIRED – give the name (can be an individual or an entity) and physical or street address (not a P.O. Box) in Arizona of the statutory agent:			11.2 OPTIONAL – mailing address in Arizona of statutory agent (can be a P.O. Box):		
C T Corporation System					
Statutory Agent Name (required)					
Attention (optional) 2390 E. Camelback Road			Attention (optional)		
Address 1			Address 1		
Address 2 (optional)			Address 2 (optional)		
City	State	Zip	City	State	Zip
Phoenix	AZ	85016			
11.3 REQUIRED – the Statutory Agent Acceptance form M002 must be submitted along with this Application For Authority.					

12. DIRECTORS – list the name and business address of each and every Director of the corporation. If more space is needed, check this box <input type="checkbox"/> and complete and attach the Director Attachment form C082.					
William E. Saxelby			Michael Burke		
Director Name 2 Science Road			Director Name 2 Science Road		
Address 1			Address 1		
Address 2 (optional) Glenwood			Address 2 (optional) Glenwood		
City	State or Province	Zip	City	State or Province	Zip
Country	UNITED STATES		Country	UNITED STATES	
Date taking office (optional):			Date taking office (optional):		

Michael R. Kennedy							
Director Name 2 Science Road				Director Name			
Address 1				Address 1			
Address 2 (optional) Glenwood		IL	60425	Address 2 (optional)			
City Country	UNITED STATES	State or Province	Zip	City Country		State or Province	Zip
Date taking office (optional):				Date taking office (optional):			
Director Name				Director Name			
Address 1				Address 1			
Address 2 (optional)				Address 2 (optional)			
City Country		State or Province	Zip	City Country		State or Province	Zip
Date taking office (optional):				Date taking office (optional):			
13. OFFICERS - list the name and business address of all principal Officers of the corporation. If more space is needed, check this box <input type="checkbox"/> and complete and attach the <u>Officer Attachment</u> form C085.							
Michael R. Kennedy				Michael Shaffer			
Officer Name 2 Science Road				Officer Name 2 Science Road			
Address 1				Address 1			
Address 2 (optional) Glenwood		IL	60425	Address 2 (optional) Glenwood		IL	60425
City Country	UNITED STATES	State or Province	Zip	City Country	UNITED STATES	State or Province	Zip
Date taking office (optional):		Officer title: President/CEO		Date taking office (optional):		Officer Title: VicePresident	
Jeff Volz				Stephanie Ladewig			
Officer Name 2 Science Road				Officer Name 2 Science Road			
Address 1				Address 1			
Address 2 (optional) Glenwood		IL	60425	Address 2 (optional) Glenwood		IL	60425
City Country	UNITED STATES	State or Province	Zip	City Country	UNITED STATES	State or Province	Zip
Date taking office (optional):		Officer Title: Treasurer		Date taking office (optional):		Officer Title: Secretary	
Lyda Hagen							
Officer Name 2 Science Road				Officer Name			
Address 1				Address 1			
Address 2 (optional) Glenwood		IL	60425	Address 2 (optional)			
City Country	UNITED STATES	State or Province	Zip	City Country		State or Province	Zip
Date taking office (optional):		Officer Title: Other		Date taking office (optional):		Officer Title:	

14. **FOR-PROFITS ONLY - SHARES AUTHORIZED** - *see Instructions C018/* - list the class (common, preferred, etc.) and total number of shares the foreign corporation is AUTHORIZED to issue. This information must match the original Articles of Incorporation plus any amendments thereto. If more space is needed, check this box ☐ and complete and attach the Shares Authorized Attachment form C087.

Class: Common Series: _____ Total: 1,000 Par Value: \$0.10
Class: _____ Series: _____ Total: _____ Par Value: _____

15. **FOR-PROFITS ONLY - SHARES ISSUED** - *see Instructions C018/* - list each class/series of authorized shares and give the total number and par value of shares of that class that have been ISSUED. If no shares of that class have been issued, put the number zero. If more space is needed, check this box ☐ and complete and attach the Shares Issued Attachment form C097.

Class: Common Series: _____ Total: 1,000 Par Value: \$0.10
Class: _____ Series: _____ Total: _____ Par Value: _____

16. **NONPROFITS ONLY - MEMBERS** - check one box only:

Does the foreign nonprofit corporation have members?

☐

Yes

☐

No

17. **PROFESSIONAL CORPORATIONS ONLY - PROFESSIONAL SERVICES** - If "professional corporation" is checked in number 1, briefly describe the type of professional services the corporation will render (examples: accounting, medical, law firm):

18. **PROFESSIONAL CORPORATIONS ONLY - PROFESSIONAL LICENSE:**

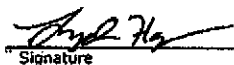
By the signature appearing on this document, the foreign professional corporation certifies under penalty of perjury that at least one-half of its shareholders who are entitled to vote for the election of directors, and at least one-half of its directors, and its president, are licensed in one or more states to render a professional service described in the foreign professional corporation's articles of Incorporation.

NOTE: You must attach a statement from the licensing authority in Arizona for the profession showing that at least one of the professional corporation's shareholders or employees is licensed in Arizona to render that professional service. (See A.R.S. § 10-2245.)

SIGNATURE:

By checking the box marked "I accept" below, I acknowledge *under penalty of perjury* that this document together with any attachments is submitted in compliance with Arizona law.

☒ I ACCEPT


Signature

Lyda Hagen
Printed Name

01/18/2013
Date

REQUIRED - check only one:

<input type="checkbox"/> I am the Chairman of the Board of Directors of the corporation filing this document.	<input checked="" type="checkbox"/> I am a duly-authorized Officer of the corporation filing this document.	<input type="checkbox"/> I am a duly authorized bankruptcy trustee , receiver, or other court-appointed fiduciary for the corporation filing this document.
--	--	--

Filing Fee: \$175.00 (regular processing)
Expedited processing - add \$35.00 to filing fee.
All fees are nonrefundable - see Instructions.

Mall: Arizona Corporation Commission - Corporate Filings Section
1300 W. Washington St., Phoenix, Arizona 85007
Fax: 602-542-4100

Please be advised that A.C.C. forms reflect only the minimum provisions required by statute. You should seek private legal counsel for those matters that may pertain to the individual needs of your business.

All documents filed with the Arizona Corporation Commission are public record and are open for public inspection.

If you have questions after reading the Instructions, please call 602-542-3026 or (within Arizona only) 800-345-5819.

DO NOT WRITE ABOVE THIS LINE; RESERVED FOR ACC USE ONLY.

STATUTORY AGENT ACCEPTANCE

Please read Instructions M002i

1. **ENTITY NAME** – give the exact name in Arizona of the corporation or LLC that has appointed the Statutory Agent:

Global Physics Solutions, Inc.

2. **A.C.C. FILE NUMBER** (if entity is already incorporated or registered in AZ): _____
Find the A.C.C. file number on the upper corner of filed documents OR on our website at: <http://www.azcc.gov/Divisions/Corporations>

3. **STATUTORY AGENT NAME** – give the exact name of the Statutory Agent appointed by the entity listed in number 1 above (this will be *either* an individual or an entity):

C T Corporation System

- 3.1 Check one box: ☐ The statutory agent is an **Individual** (natural person).
☒ The statutory agent is an **Entity**.

STATUTORY AGENT SIGNATURE:

By the signature appearing below, the individual or entity named in number 3 above accepts the appointment as statutory agent for the entity named in number 1 above, and acknowledges that the appointment is effective until the entity replaces the statutory agent or the statutory agent resigns, whichever occurs first.

By checking the box marked "I accept" below, I acknowledge *under penalty of perjury* that this document together with any attachments is submitted in compliance with Arizona law."

☒ I ACCEPT


Signature

Bernadette Baker
Assistant Secretary

1/24/13
Date

REQUIRED – check only one:

☐ **Individual as statutory agent:** I am signing on behalf of myself as the individual

☒ **Entity as statutory agent:** I am signing on behalf of the entity named as statutory agent, and I am authorized to act for that entity.

Filing Fee: none (regular processing)
Expedited processing – add \$35.00 to filing fee.
All fees are nonrefundable – see Instructions.

Mall: Arizona Corporation Commission - Corporate Filings Section
1300 W. Washington St., Phoenix, Arizona 85007
Fax: 602-542-4100

Please be advised that A.C.C. forms reflect only the minimum provisions required by statute. You should seek private legal counsel for those matters that may pertain to the individual needs of your business.
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Clear Form**Print Form**

DO NOT WRITE ABOVE THIS LINE; RESERVED FOR ACC USE ONLY.

CERTIFICATE OF DISCLOSURE*Read the Instructions C003I***1. ENTITY NAME** - give the exact name of the corporation in Arizona:

Global Physics Solutions, Inc.

2. A.C.C. FILE NUMBER (if already incorporated or registered in AZ):Find the A.C.C. file number on the upper corner of filed documents OR on our website at: <http://www.azcc.gov/Divisions/Corporations>**3. Check only one of the following to indicate the type of Certificate:**

- ☒ Initial (accompanies formation or registration documents)
☐ Annual (credit unions and loan companies only)
☐ Supplemental to COD filed _____ (supplements a previously-filed Certificate of Disclosure)

4. FELONY/JUDGMENT QUESTIONS:

Has any person (a) who is currently an officer, director, trustee, or incorporator, or (b) who controls or holds over ten per cent of the issued and outstanding common shares or ten per cent of any other proprietary, beneficial or membership interest in the corporation been:

4.1	Convicted of a felony involving a transaction in securities, consumer fraud or antitrust in any state or federal jurisdiction within the seven year period immediately preceding the signing of this certificate?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
4.2	Convicted of a felony, the essential elements of which consisted of fraud, misrepresentation, theft by false pretenses or restraint of trade or monopoly in any state or federal jurisdiction within the seven-year period immediately preceding the signing of this certificate?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
4.3	Subject to an injunction, judgment, decree or permanent order of any state or federal court entered within the seven-year period immediately preceding the signing of this certificate, involving any of the following: a. The violation of fraud or registration provisions of the securities laws of that jurisdiction; b. The violation of the consumer fraud laws of that jurisdiction; c. The violation of the antitrust or restraint of trade laws of that jurisdiction?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
4.4	If any of the answers to numbers 4.1, 4.2, or 4.3 are YES, you MUST complete and attach a <u>Certificate of Disclosure Felony/Judgment Attachment</u> form C004.		

5. BANKRUPTCY QUESTION:

5.1 Has any person (a) who is currently an officer, director, trustee, incorporator, or (b) who controls or holds over twenty per cent of the issued and outstanding common shares or twenty per cent of any other proprietary, beneficial or membership interest in the corporation, served in any such capacity or held a twenty per cent interest in **any other corporation** (not the one filing this Certificate) on the bankruptcy or receivership of the other corporation?

☐ Yes☒ No

5.2 If the answer to number 5.1 is **YES**, you **MUST** complete and attach a Certificate of Disclosure Bankruptcy Attachment form C005.

IMPORTANT: If within 60 days of the delivery of this Certificate to the A.C.C. any person not included in this Certificate becomes an officer, director, trustee or person controlling or holding over ten per cent of the issued and outstanding shares or ten per cent of any other proprietary, beneficial or membership interest in the corporation, the corporation must submit a SUPPLEMENTAL Certificate providing information about that person, signed by all incorporators or by a duly elected and authorized officer.

SIGNATURE REQUIREMENTS:

Initial Certificate of Disclosure:	This Certificate must be signed by all incorporators. If more space is needed, complete and attach an <u>Incorporator Attachment</u> form C084.
Foreign corporations:	This Certificate may be signed by a duly authorized officer or by the Chairman of the Board of Directors.
Credit Unions and Loan Companies:	This Certificate must be signed by any 2 officers or directors.

Lyda Hagen

Name

2 Science Road

Address 1

Address 2

Glenwood

IL

60425

City

UNITED STATES

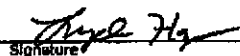
State

Zip

Country

SIGNATURE - see Instructions C003i:

By checking the box marked "I accept" below, I acknowledge under penalty of perjury that this document together with any attachments is submitted in compliance with Arizona law.

☒ I ACCEPT

Lyda Hagen

1/18/2013

Printed Name

Date

REQUIRED - check only one:

- ☐ **Incorporator** - I am an incorporator of the corporation submitting this Certificate.
- ☒ **Officer** - I am an officer of the corporation submitting this Certificate.
- ☐ **Chairman of the Board of Directors** - I am the Chairman of the Board of Directors of the corporation submitting this Certificate.
- ☐ **Director** - I am a Director of the credit union or loan company submitting this Certificate.

Name

Address 1

Address 2

City

State

Zip

Country

SIGNATURE - see Instructions C003i:

By checking the box marked "I accept" below, I acknowledge under penalty of perjury that this document together with any attachments is submitted in compliance with Arizona law.

☐ I ACCEPT

Signature

Printed Name

Date

REQUIRED - check only one:

- ☐ **Incorporator** - I am an incorporator of the corporation submitting this Certificate.
- ☐ **Officer** - I am an officer of the corporation submitting this Certificate.
- ☐ **Chairman of the Board of Directors** - I am the Chairman of the Board of Directors of the corporation submitting this Certificate.
- ☐ **Director** - I am a Director of the credit union or loan company submitting this Certificate.

Filing Fee: None (regular processing)

Expedited processing - add \$35.00 to filing fee.

All fees are nonrefundable - see Instructions.

Mail: Arizona Corporation Commission - Corporate Filings Section
1300 W. Washington St., Phoenix, Arizona 85007

Fax: 602-542-4100

Please be advised that A.C.C. forms reflect only the minimum provisions required by statute. You should seek private legal counsel for those matters that may pertain to the individual needs of your business.

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C003.D01
Rev: 2010

Arizona Corporation Commission - Corporations Division
Page 2 of 2

Delaware

PAGE 1

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "GLOBAL PHYSICS SOLUTIONS, INC." IS DULY INCORPORATED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL CORPORATE EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE TWENTY-FOURTH DAY OF JANUARY, A.D. 2013.

AND I DO HEREBY FURTHER CERTIFY THAT THE FRANCHISE TAXES HAVE BEEN PAID TO DATE.

AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL REPORTS HAVE BEEN FILED TO DATE.

4489537 8300

130084004



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


Jeffrey W. Bullock, Secretary of State
AUTHENTICATION: 0165435

DATE: 01-24-13

Delaware

PAGE 1

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED ARE TRUE AND CORRECT COPIES OF ALL DOCUMENTS FILED FROM AND INCLUDING THE RESTATED CERTIFICATE OR A MERGER WITH A RESTATED CERTIFICATE ATTACHED OF "GLOBAL PHYSICS SOLUTIONS, INC." AS RECEIVED AND FILED IN THIS OFFICE.

THE FOLLOWING DOCUMENTS HAVE BEEN CERTIFIED:

RESTATED CERTIFICATE, FILED THE THIRTEENTH DAY OF MARCH, A.D. 2008, AT 7:38 O'CLOCK P.M.

CERTIFICATE OF DESIGNATION, FILED THE THIRTEENTH DAY OF MARCH, A.D. 2008, AT 7:39 O'CLOCK P.M.

CERTIFICATE OF CORRECTION, FILED THE SEVENTEENTH DAY OF APRIL, A.D. 2009, AT 3:04 O'CLOCK P.M.

CERTIFICATE OF CORRECTION, FILED THE THIRTIETH DAY OF APRIL, A.D. 2009, AT 2:10 O'CLOCK P.M.

CERTIFICATE OF CHANGE OF REGISTERED AGENT, FILED THE TWENTY-FOURTH DAY OF AUGUST, A.D. 2010, AT 6:22 O'CLOCK P.M.

RESTATED CERTIFICATE, FILED THE TENTH DAY OF SEPTEMBER, A.D. 2010, AT 10:48 O'CLOCK A.M.

4489537 8100X

130084004



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


Jeffrey W. Bullock, Secretary of State
AUTHENTICATION: 0165436

DATE: 01-24-13

**AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
GLOBAL PHYSICS SOLUTIONS, INC.**

**(Pursuant to Sections 242 and 245 of the
General Corporation Law of the State of Delaware)**

Global Physics Solutions, Inc., a corporation organized and existing under and by virtue of the provisions of the General Corporation Law of the State of Delaware (the "DGCL"),

DOES HEREBY CERTIFY:

FIRST: That the name of this corporation is Global Physics Solutions, Inc. (the "*Corporation*") and that this corporation was originally incorporated pursuant to the DGCL on January 15, 2008.

SECOND: That the board of directors of the Corporation duly adopted resolutions proposing to amend and restate the Certificate of Incorporation of the Corporation, declaring said amendment and restatement to be advisable and in the best interests of the Corporation and its stockholders, and authorizing the appropriate officers of the Corporation to solicit the consent of the stockholders therefore. The resolutions setting forth the proposed amendment and restatement (i) increase the total number of shares of Common Stock which the Corporation has authority to issue to 30,000,000 shares, (ii) authorizes a new class of Preferred Stock of the Corporation consisting of 15,000,000 shares of the par value of \$.01 each, and (iii) declare that the 1,000 presently outstanding shares of Common Stock be split into 73,756 outstanding shares of Common Stock by splitting each outstanding share of Common Stock into 73.756 shares of Common Stock. The resolution is as follows:

RESOLVED, that the Certificate of Incorporation of the Corporation be amended and restated in its entirety as follows:

**ARTICLE I
NAME**

1.1 Name. The name of the corporation is **Global Physics Solutions, Inc.** (the "*Corporation*").

**ARTICLE II
REGISTERED OFFICE AND REGISTERED AGENT**

2.1 Address and Name. The Corporation's registered office in the State of Delaware is 615 South Dupont Highway, Dover, Kent County, DE 19901. The name of its registered agent at such address is Capitol Services, Inc.

ARTICLE III EXISTENCE

3.1 **Term.** The existence of the Corporation shall be perpetual.

ARTICLE IV PURPOSE

4.1 **Purpose.** The purpose of the Corporation shall be to engage in any lawful act or activity for which corporations may be organized under the DGCL.

ARTICLE V AUTHORIZED STOCK

5.1 **Authorized Stock.** The total number of shares of stock of all classes which the Corporation shall have authority to issue is 45,000,000 shares consisting of (i) 30,000,000 shares of common stock, par value \$.01 per share ("*Common Stock*"), and (ii) 15,000,000 shares of preferred stock, par value \$.01 per share ("*Preferred Stock*"). The Corporation may issue shares of any class or series of its capital stock from time to time for such consideration and for such corporate purposes as the Board of Directors of the Corporation (the "*Board of Directors*") may from time to time determine. Each one share of the Corporation's Common Stock outstanding as of the effective time of this Amended and Restated Certificate of Incorporation shall be changed and reclassified into 73,756 fully paid and nonassessable shares of the Corporation's Common Stock without any further action by the stockholders or Board of Directors of the Corporation.

The following is a statement of the powers, preferences and rights, and the qualifications, limitations or restrictions, of the Preferred Stock and the Common Stock.

(a) **Common Stock.**

(i) *Dividends.* Subject to the rights of the holders of Preferred Stock, and subject to any other provisions of this Certificate of Incorporation, holders of Common Stock shall be entitled to receive such dividends and other distributions in cash, stock of the Corporation, or other property of the Corporation as may be declared thereon by the Board of Directors from time to time out of assets or funds of the Corporation legally available therefor and shall share equally on a per share basis in all such dividends and other distributions.

(ii) *Distribution of Assets.* In the event of any dissolution, liquidation or winding up of the affairs of the Corporation, whether voluntary or involuntary, after payment in full of the amounts required to be paid to the holders of Preferred Stock, the remaining assets and funds of the Corporation shall be distributed equally on a per share basis to the holders of Common Stock. For purposes of this Section 5.1(a)(ii), the voluntary sale, conveyance, lease, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the assets of the Corporation or a consolidation or merger of the Corporation with one or more other corporations or other entities (whether or not the Corporation is the corporation surviving such

consolidation or merger) shall not be deemed to be a liquidation, dissolution or winding up, voluntary or involuntary.

(iii) *Voting Rights.* In connection with the election of directors and all other matters submitted to a vote of stockholders at any meeting of the stockholders of the Corporation, every holder of Common Stock shall be entitled to one vote in person or by proxy for each share of Common Stock standing in his or her name on the transfer books of the Corporation, except as otherwise provided by law and subject to any voting rights that may be granted to holders of Preferred Stock. The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares of Common Stock then outstanding) by the affirmative vote of the holders of a majority of the Shares of Common Stock outstanding and entitled to vote thereon, except as otherwise provided by law and subject to the rights that may be granted to holders of Preferred Stock.

(b) Preferred Stock. The shares of Preferred Stock may be divided into and issued in one or more series, the relative rights, powers and preferences of which series may vary in any and all respects. The Board of Directors is expressly vested with the authority to fix, by resolution or resolutions adopted prior to and providing for the issuance of any shares of each particular series of Preferred Stock and incorporated in a certificate of designations ("*Certificate of Designations*") filed with the Secretary of State of the State of Delaware, the designations, powers, preferences, rights, qualifications, limitations and restrictions of the shares of each series of Preferred Stock, to the extent not provided for in this Certificate of Incorporation, and with the authority to increase or decrease the number of shares within a series of Preferred Stock below the number of shares within such series that is then outstanding. The authority of the Board of Directors with respect to fixing the designations, powers, preferences, rights, qualifications, limitations and restrictions of each such series of Preferred Stock shall include, but not be limited to, determination of the following:

- (i) the distinctive designation and number of shares of that series;
- (ii) the rate of dividends (or the method of calculation thereof) payable with respect to shares of that series, the dates, terms and other conditions upon which such dividends shall be payable, and the relative rights of priority of such dividends to dividends payable on any other class or series of capital stock of the Corporation;
- (iii) the nature of the dividend payable with respect to shares of that series as cumulative, noncumulative or partially cumulative, and if cumulative or partially cumulative, from which date or dates and under what circumstances;
- (iv) whether shares of that series shall be subject to redemption, and, if made subject to redemption, the times, prices, rates, adjustments and other terms and conditions of such redemption (including the manner of selecting shares of that series for redemption if fewer than all shares of such series are to be redeemed);
- (v) the rights of the holders of shares of that series in the event of voluntary or involuntary liquidation, dissolution or winding up of the Corporation (which rights may

be different if such action is voluntary than if it is involuntary), including the relative rights of priority in such event as to the rights of the holders of any other class or series of capital stock of the Corporation;

(vi) the terms, amounts and other conditions of any sinking or similar purchase or other fund provided for the purchase or redemption of shares of that series;

(vii) whether shares of that series shall be convertible into or exchangeable for shares of capital stock or other securities of the Corporation or of any other corporation or entity, and, if provision be made for conversion or exchange, the times, prices, rates, adjustments and other terms and conditions of such conversion or exchange;

(viii) the extent, if any, to which the holders of shares of that series shall be entitled (in addition to any voting rights provided by law) to vote as a class or otherwise with respect to the election of directors or otherwise;

(ix) the restrictions and conditions, if any, upon the issue or reissue of any additional Preferred Stock ranking on a parity with or prior to shares of that series as to dividends or upon liquidation, dissolution or winding up;

(x) any other repurchase obligations of the Corporation, subject to any limitations of applicable law; and

(xi) any other designations, powers, preferences, rights, qualifications, limitations or restrictions of shares of that series.

Any of the designations, powers, preferences, rights, qualifications, limitations or restrictions of any series of Preferred Stock may be dependent on facts ascertainable outside this Certificate of Incorporation, or outside the resolution or resolutions providing for the issue of such series of Preferred Stock adopted by the Board of Directors pursuant to authority expressly vested in it by this Certificate of Incorporation. Except as applicable law or this Certificate of Incorporation otherwise may require, the terms of any series of Preferred Stock may be amended without the consent of the holders of any other series of Preferred Stock or any class of capital stock of the Corporation.

The relative powers, preferences and rights of each series of Preferred Stock in relation to the powers, preferences and rights of each other series of Preferred Stock shall, in each case, be as fixed from time to time by the Board of Directors in the resolution or resolutions adopted pursuant to the authority granted in this Section 5.1(b), and the consent, by class or series vote or otherwise, of holders of Preferred Stock of such series of Preferred Stock as from time to time outstanding shall not be required for the issuance by the Board of Directors of any other series of Preferred Stock, whether or not the powers, preferences and rights of such other series shall be fixed by the Board of Directors as senior to, or on a parity with, the powers, preferences and rights of such outstanding series, or any of them; provided, however, that the Board of Directors may provide in such resolution or resolutions adopted with respect to any series of Preferred Stock that the consent of holders of at least a majority (or such greater proportion as shall

be therein fixed) of the outstanding shares of such series voting thereon shall be required for the issuance of shares of any or all other series of Preferred Stock.

Shares of any series of Preferred Stock shall have no voting rights except as required by law or as provided in the relative powers, preferences and rights of such series.

(c) Other Provisions Applicable to the Corporation's Capital Stock.

(i) *Preemptive Rights.* No holder of any Common Stock of the Corporation shall be entitled to the right to purchase or subscribe for any part of any unissued or treasury stock of the Corporation, or of any additional stock of any class, to be issued by reason of any increase of the authorized capital stock of the Corporation, or to be issued from any unissued or additionally authorized stock, or of bonds, certificates of indebtedness, debentures or other securities convertible into stock of the Corporation, but any such unissued or treasury stock, or any such additionally authorized issue of new stock or securities convertible into stock, may be issued and disposed of by the Board of Directors to such persons, firms, corporations or associations, and upon such terms as the Board of Directors may, in its discretion, determine, without offering to the stockholders then of record, or any class of stockholders, any thereof, on the same terms or any terms.

(ii) *Voting Rights.* All rights to vote and all voting power (including, without limitation thereto, the right to elect directors) shall be vested exclusively in the holders of Common Stock, except as otherwise expressly provided in this Certificate of Incorporation, in a Certificate of Designation with respect to any Preferred Stock or as otherwise expressly required by applicable law.

(iii) *Cumulative Voting.* No stockholder shall be entitled to exercise any right of cumulative voting.

ARTICLE VI MANAGEMENT AND GOVERNANCE

6.1 **General.** This Article 6 contains provisions for the management of the business and for the conduct of the affairs of the Corporation, and provisions creating, defining, limiting and regulating the powers of the Corporation, its directors, and the stockholders of any class of the Corporation's stock.

6.2 **Bylaws.** The Board of Directors is expressly authorized to alter, amend or repeal the bylaws of the Corporation, or to adopt new bylaws.

6.3 **Election of Directors.** Election of Directors need not be by written ballot unless the bylaws of the Corporation so provide.

6.4 **Stockholder Action by Written Consent.** Any action required or permitted to be taken at any annual or special meeting of stockholders may be taken without a meeting, without prior written notice and without a vote if a consent or consents in writing setting forth the action to be so taken shall be signed by not less than all of the stockholders entitled to

consent to corporate action in writing on the record date for such consent or consents. If permitted by the Corporation's bylaws, an electronic transmission shall be deemed to be a written consent provided such electronic submission meets the applicable requirement of the Corporation's bylaws and the DGCL.

ARTICLE VII LIMITATION OF DIRECTOR LIABILITY

7.1 Exoneration. No director of the Corporation shall be personally liable to the Corporation or to its stockholders for monetary damages for breach of fiduciary duty as a director, provided that this Article shall not eliminate or limit the liability of a director:

- (i) for any breach of the director's duty of loyalty to the Corporation or its stockholders;
- (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law;
- (iii) under Section 174 of the DGCL, as it may hereafter be amended from time to time, for any unlawful payment of a dividend or unlawful stock purchase or redemption; or
- (iv) for any transaction from which the director derived an improper personal benefit.

If the DGCL is amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the DGCL, as so amended. No amendment to or repeal of this Article will apply to, or have any effect on, the liability or alleged liability of any director of the Corporation for or with respect to any acts or omissions of the director occurring prior to such amendment or repeal.

ARTICLE VIII INDEMNIFICATION

8.1 Mandatory Indemnification in Non-Derivative Proceedings. The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation) by reason of the fact that the person is or was a director or officer of the Corporation against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the

Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

8.2 Mandatory Indemnification in Derivative Proceedings. The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that he is or was a director or officer of the Corporation against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if such person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the Corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the Corporation unless and only to the extent that the Court of Chancery of the State of Delaware or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

8.3 Mandatory Indemnification Upon Successful Defense. To the extent that a present or former director or officer of the Corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Sections 8.1 and 8.2 hereof, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith.

8.4 Determination of Entitlement to Indemnification. Any indemnification under Sections 8.1 and 8.2 hereof (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the present or former director or officer is proper in the circumstances because the person has met the applicable standard of conduct set forth in Sections 8.1 and 8.2 hereof. Such determination shall be made with respect to a person who is a director or officer at the time of such determination, (i) by a majority vote of the directors who are not parties to such action, suit or proceeding, even though less than a quorum, or (ii) by a committee of such directors designated by majority vote of such directors, even though less than a quorum, or (iii) if there are no such directors, or if such directors so direct, by independent legal counsel in a written opinion, or (iv) by the stockholders of the Corporation.

8.5 Advancement of Expenses. Expenses (including attorneys' fees) incurred by an officer or director in defending any civil, criminal, administrative or investigative action, suit or proceeding shall be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such director or officer to repay such amount if it shall ultimately be determined that such person is not entitled to be indemnified by the Corporation pursuant to this Article 8. Such expenses (including attorneys' fees) incurred by former directors and officers may be so paid upon such terms and conditions, if any, as the Corporation deems appropriate.

8.6 Permissive Indemnification. The rights to indemnification and advancement of expenses which are conferred upon the Corporation's directors and officers by this Article 8 may

also be conferred upon any person who is or was a non-officer employee or agent of the Corporation and upon any person who is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise if, and to the extent, specifically authorized by the Board of Directors.

8.7 Other Rights Not Impaired. The indemnification and advancement of expenses provided by, or granted pursuant to, other Sections of this Article 8 shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any law, bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in an official capacity and as to action in another capacity while holding such office.

8.8 Certain References. (a) For purposes of this Article 8, references to "the Corporation" shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, employees or agents so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this Article 8 with respect to the resulting or surviving corporation as he would have with respect to such constituent corporation if its separate existence had continued.

(b) For purposes of this Article 8, references to "other enterprises" shall include employee benefit plans; references to "fines" shall include any excise taxes assessed on a person with respect to an employee benefit plan; and references to "serving at the request of the Corporation" shall include any service as a director, officer, employee or agent of the Corporation which imposes duties on, or involves service by, such director, officer, employee or agent with respect to any employee benefit plan, its participants, or beneficiaries; and a person who acted in good faith and in a manner he reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interests of the Corporation" as referred to in this Article 8.

8.9 Rights After Termination of Status. The indemnification and advancement of expenses provided by, or granted pursuant to, this Article 8 shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

8.10 Insurance for Indemnification. The Corporation shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Corporation has the power to indemnify such person against such liability under this Article 8 or the provisions of the DGCL.

8.11 Other Arrangements for Indemnification. Without limiting the power of the Corporation to procure or maintain insurance or other arrangement on behalf of any person, the Corporation may, for the benefit of persons eligible for indemnification by the Corporation, (i) create a trust fund, (ii) establish any form of self-insurance, (iii) secure its indemnity obligation by grant of a security interest or other lien on the assets of the Corporation or (iv) establish a letter of credit, guaranty or surety arrangement.

**ARTICLE IX
DGCL SECTION 203**

9.1 The Corporation elects to not be governed by Section 203 of the DGCL.

**ARTICLE X
DIRECTORS**

10.1 Identity of Directors. The name and mailing address of the person who is to serve as the sole director of the Corporation until the first annual meeting of its stockholders or until his successor or successors are elected and qualify is as follows: Len Wright, 13515 Pegasus Road, Cypress, Texas 77429.

THIRD: The foregoing amendment and restatement was approved by the sole stockholder of the Corporation in accordance with Section 228 of the DGCL.

FOURTH: That said amendment and restatement was duly adopted in accordance with the provisions of Section 242 and 245 of the DGCL.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned, being the President of the Corporation, executes this Amended and Restated Certificate of Incorporation subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument.

A handwritten signature in black ink, appearing to read 'Len Wright', is written over a horizontal line.

Len Wright, *President*
Dated: March 13, 2008

**CERTIFICATE OF DESIGNATIONS OF
CONVERTIBLE PREFERRED STOCK
OF GLOBAL PHYSICS SOLUTIONS, INC.**

**Pursuant to Section 151 of the
General Corporation Law of the State of Delaware**

Global Physics Solutions, Inc., a Delaware corporation (the "*Company*"), certifies that pursuant to the authority contained in Article IV of its Certificate of Incorporation (the "*Certificate of Incorporation*"), and in accordance with the provisions of Section 151 of the General Corporation Law of the State of Delaware (the "*DGCL*"), the Board of Directors by a written unanimous consent dated March 13, 2008, duly approved and adopted the following resolution, which resolution remains in full force and effect on the date hereof:

RESOLVED, that pursuant to the authority vested in the Board of Directors by the Certificate of Incorporation, the Board of Directors does hereby designate, create, authorize and provide for the issue of a series of the Company's preferred stock, par value \$0.01 per share, with a liquidation preference of \$10 per share, plus an amount equal to the sum of all accumulated and unpaid dividends, subject to adjustment as provided in Section 15(ii) hereof, which shall be designated as Convertible Preferred Stock (the "*Preferred Stock*") consisting of 10,000,000 shares, no shares of which have heretofore been issued by the Company, having the following powers, designations, preferences and relative, participating, optional and other special rights, and qualifications, limitations and restrictions thereof:

1. **Dividends.** From and after the date of the issuance of any shares of Preferred Stock, dividends at the rate per annum of eight percent (8%) per share on the Original Issue Price (as defined below) plus all accrued and unpaid dividends thereon shall accrue on such shares of Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Preferred Stock) (the "*Accruing Dividends*"). Accruing Dividends shall accrue from day to day, whether or not declared, and shall be cumulative; *provided however*, that except as set forth in the following sentence of this Section 1 or in Subsections 2.1 and 6, such Accruing Dividends shall be payable only when, as, and if declared by the Board of Directors and the Corporation shall be under no obligation to pay such Accruing Dividends. The Corporation shall not declare, pay or set aside any dividends on shares of any other class or series of capital stock of the Corporation (other than dividends on shares of Common Stock payable in shares of Common Stock) unless (in addition to the obtaining of any consents required elsewhere in the Certificate of Incorporation) the holders of the Preferred Stock then outstanding shall first receive, or simultaneously receive, a dividend on each outstanding share of Preferred Stock in an amount equal to the amount of the aggregate Accruing Dividends then accrued on such shares of Preferred Stock and not previously paid. The "*Original Issue Price*" shall mean \$10 per share, subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Preferred Stock.

2. Liquidation, Dissolution or Winding Up; Certain Mergers, Consolidations and Asset Sales.

2.1 Preferential Payments to Holders of Preferred Stock. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the holders of shares of Preferred Stock then outstanding shall be entitled to be paid out of the assets of the Corporation available for distribution to its stockholders before any payment shall be made to the holders of Common Stock by reason of their ownership thereof, an amount per share equal to the greater of (i) the Original Issue Price, plus any Accruing Dividends accrued but unpaid thereon, whether or not declared, together with any other dividend declared but unpaid thereon or (ii) such amount per share as would have been payable had all shares of Preferred Stock been converted into Common Stock pursuant to *Section 4* immediately prior to such liquidation, dissolution or winding up (the amount payable pursuant to this sentence is hereinafter referred to as the "*Liquidation Amount*"). If upon any such liquidation, dissolution or winding up of the Corporation, the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of shares of Preferred Stock the full amount to which they shall be entitled under this *Subsection 2.1*, the holders of shares of Preferred Stock shall share ratably in any distribution of the assets available for distribution in proportion to the respective amounts which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full.

2.2 Distribution of Remaining Assets. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, after the payment of all preferential amounts required to be paid to the holders of shares of Preferred Stock the remaining assets of the Corporation available for distribution to its stockholders shall be distributed among the holders of the shares of Common Stock, pro rata based on the number of shares held by each such holder.

2.3 Deemed Liquidation Events.

2.3.1 Definition. Each of the following events shall be considered a "*Deemed Liquidation Event*" unless the holders of at least two-thirds of the outstanding shares of Preferred Stock elect otherwise by written notice sent to the Corporation at least 15 days prior to the effective date of any such event:

- (a) a merger or consolidation in which
 - (i) the Corporation is a constituent party; or
 - (ii) a subsidiary of the Corporation is a constituent party and the Corporation issues shares of its capital stock pursuant to such merger or consolidation,

except any such merger or consolidation involving the Corporation or a subsidiary in which the shares of capital stock of the Corporation outstanding immediately prior to such merger or consolidation continue to

represent, or are converted into or exchanged for shares of capital stock that represent, immediately following such merger or consolidation, at least a majority, by voting power, of the capital stock of (1) the surviving or resulting corporation or (2) if the surviving or resulting corporation is a wholly owned subsidiary of another corporation immediately following such merger or consolidation, the parent corporation of such surviving or resulting corporation (*provided that*, for the purpose of this **Subsection 2.3.1**, all shares of Common Stock issuable upon exercise of Options (as defined below) outstanding immediately prior to such merger or consolidation or upon conversion of Convertible Securities (as defined below) outstanding immediately prior to such merger or consolidation shall be deemed to be outstanding immediately prior to such merger or consolidation and, if applicable, converted or exchanged in such merger or consolidation on the same terms as the actual outstanding shares of Common Stock are converted or exchanged); or

(b) the sale, lease, transfer, exclusive license or other disposition, in a single transaction or series of related transactions, by the Corporation or any subsidiary of the Corporation of all or substantially all the assets of the Corporation and its subsidiaries taken as a whole, or the sale or disposition (whether by merger or otherwise) of one or more subsidiaries of the Corporation if substantially all of the assets of the Corporation and its subsidiaries taken as a whole are held by such subsidiary or subsidiaries, except where such sale, lease, transfer, exclusive license or other disposition is to a wholly owned subsidiary of the Corporation.

2.3.2 Effecting a Deemed Liquidation Event.

(a) The Corporation shall not have the power to effect a Deemed Liquidation Event referred to in **Subsection 2.3.1(a)(i)** unless the agreement or plan of merger or consolidation for such transaction (the "*Merger Agreement*") provides that the consideration payable to the stockholders of the Corporation shall be allocated among the holders of capital stock of the Corporation in accordance with **Subsection 2.1**.

(b) In the event of a Deemed Liquidation Event referred to in **Subsection 2.3.1(a)(ii)** or **2.3.1(b)**, if the Corporation does not effect a dissolution of the Corporation under the General Corporation Law within 90 days after such Deemed Liquidation Event, then (i) the Corporation shall send a written notice to each holder of Preferred Stock no later than the 90th day after the Deemed Liquidation Event advising such holders of their right (and the requirements to be met to secure such right) pursuant to the terms of the following *clause (ii)* to require the redemption of such shares of Preferred Stock, and (ii) if the holders of at least 66⅔% of the then outstanding shares of Preferred Stock so request in a written instrument delivered to the Corporation not later than 120 days after such

Deemed Liquidation Event, the Corporation shall use the consideration received by the Corporation for such Deemed Liquidation Event (net of any retained liabilities associated with the assets sold or technology licensed, as determined in good faith by the Board of Directors of the Corporation), together with any other assets of the Corporation available for distribution to its stockholders (the "*Available Proceeds*"), to the extent legally available therefor, on the 150th day after such Deemed Liquidation Event, to redeem all outstanding shares of Preferred Stock at a price per share equal to the Liquidation Amount. Notwithstanding the foregoing, in the event of a redemption pursuant to the preceding sentence, if the Available Proceeds are not sufficient to redeem all outstanding shares of Preferred Stock, the Corporation shall redeem a pro rata portion of each holder's shares of Preferred Stock to the fullest extent of such Available Proceeds, based on the respective amounts which would otherwise be payable in respect of the shares to be redeemed if the Available Proceeds were sufficient to redeem all such shares, and shall redeem the remaining shares to have been redeemed as soon as practicable after the Corporation has funds legally available therefor. The provisions of *Subsections 6.2 through 6.4* shall apply, with such necessary changes in the details thereof as are necessitated by the context, to the redemption of the Preferred Stock pursuant to this *Subsection 2.3.2(b)*. Prior to the distribution or redemption provided for in this *Subsection 2.3.2(b)*, the Corporation shall not expend or dissipate the consideration received for such Deemed Liquidation Event, except to discharge expenses incurred in connection with such Deemed Liquidation Event or in the ordinary course of business.

2.3.3* Amount Deemed Paid or Distributed. The amount deemed paid or distributed to the holders of capital stock of the Corporation upon any such merger, consolidation, sale, transfer, exclusive license, other disposition or redemption shall be the cash or the value of the property, rights or securities paid or distributed to such holders by the Corporation or the acquiring person, firm or other entity. The value of such property, rights or securities shall be determined in good faith by the Board of Directors of the Corporation.

3. Voting.

3.1 General. On any matter presented to the stockholders of the Corporation for their action or consideration at any meeting of stockholders of the Corporation (or by written consent of stockholders in lieu of meeting), each holder of outstanding shares of Preferred Stock shall be entitled to cast the number of votes equal to the number of whole shares of Common Stock into which the shares of Preferred Stock held by such holder are convertible as of the record date for determining stockholders entitled to vote on such matter. Except as provided by law or by the other provisions of the Certificate of Incorporation, holders of Preferred Stock shall vote together with the holders of Common Stock as a single class.

3.2 Election of Directors. The holders of record of the shares of Preferred Stock, exclusively and as a separate class, shall be entitled to elect three directors of the Corporation (the "*Preferred Directors*"). Any director elected as provided in the preceding sentence may be removed without cause by, and only by, the affirmative vote of the holders of the Preferred Stock, given either at a special meeting of such stockholders duly called for that purpose or pursuant to a written consent of stockholders. If the holders of shares of Preferred Stock fail to elect a sufficient number of directors to fill all directorships for which they are entitled to elect directors, voting exclusively and as a separate class, pursuant to the first sentence of this *Subsection 3.2*, then any directorship not so filled shall remain vacant until such time as the holders of the Preferred Stock elect a person to fill such directorship by vote or written consent in lieu of a meeting; and no such directorship may be filled by stockholders of the Corporation other than by the holders of the Preferred Stock, voting exclusively and as a separate class. The holders of record of the shares of Common Stock and of any other class or series of voting stock (including the Preferred Stock), exclusively and voting together as a single class, shall be entitled to elect the balance of the total number of directors of the Corporation. At any meeting held for the purpose of electing a director, the presence in person or by proxy of the holders of a majority of the outstanding shares of the class or series entitled to elect such director shall constitute a quorum for the purpose of electing such director. Except as otherwise provided in this *Subsection 3.2*, a vacancy in any directorship filled by the holders of Preferred Stock shall be filled only by vote or written consent in lieu of a meeting of the holders of Preferred Stock or by any remaining director or directors elected by the holders of Preferred Stock pursuant to this *Subsection 3.2*.

3.3 Preferred Stock Protective Provisions. At any time when shares of Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or the Certificate of Incorporation) the written consent or affirmative vote of the holders of at least two-thirds of the then outstanding shares of Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class:

(a) liquidate, dissolve or wind-up the business and affairs of the Corporation, effect any Deemed Liquidation Event, or consent to any of the foregoing;

(b) amend, alter or repeal any provision of the Certificate of Incorporation or Bylaws of the Corporation in a manner that adversely affects the powers, preferences or rights of the Preferred Stock;

(c) create, or authorize the creation of, or issue or obligate itself to issue shares of, any additional class or series of capital stock unless the same ranks junior to the Preferred Stock with respect to the distribution of assets on the liquidation, dissolution or winding up of the Corporation, the payment of dividends and rights of redemption, or increase the authorized number of shares of Preferred Stock or increase the authorized number of shares of any additional

class or series of capital stock unless the same ranks junior to the Preferred Stock with respect to the distribution of assets on the liquidation, dissolution or winding up of the Corporation, the payment of dividends and rights of redemption;

(d) (i) reclassify, alter or amend any existing security of the Corporation that is *pari passu* with the Preferred Stock in respect of the distribution of assets on the liquidation, dissolution or winding up of the Corporation, the payment of dividends or rights of redemption, if such reclassification, alteration or amendment would render such other security senior to the Preferred Stock in respect of any such right, preference or privilege, or (ii) reclassify, alter or amend any existing security of the Corporation that is junior to the Preferred Stock in respect of the distribution of assets on the liquidation, dissolution or winding up of the Corporation, the payment of dividends or rights of redemption, if such reclassification, alteration or amendment would render such other security senior to or *pari passu* with the Preferred Stock in respect of any such right, preference or privilege; or

(e) purchase or redeem (or permit any subsidiary to purchase or redeem) or pay or declare any dividend or make any distribution on, any shares of capital stock of the Corporation other than (i) redemptions of or dividends or distributions on the Preferred Stock as expressly authorized herein, (ii) dividends or other distributions payable on the Common Stock solely in the form of additional shares of Common Stock and (iii) repurchases of stock from former employees, officers, directors, consultants or other persons who performed services for the Corporation or any subsidiary in connection with the cessation of such employment or service at the lower of the original purchase price or the then-current fair market value thereof or (iv) as approved by the Board of Directors, including the approval of at least one Preferred Director.

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

4.1 **Right to Convert.**

4.1.1 **Conversion Ratio.** Each share of Preferred Stock shall be convertible, at the option of the holder thereof, at any time and from time to time, and without the payment of additional consideration by the holder thereof, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing the Original Issue Price by the Preferred Conversion Price (as defined below) in effect at the time of conversion. The "*Preferred Conversion Price*" shall initially be equal to \$10.00. Such initial Preferred Conversion Price, and the rate at which shares of Preferred Stock may be converted into shares of Common Stock, shall be subject to adjustment as provided below.

4.1.2 **Termination of Conversion Rights.** In the event of a notice of redemption of any shares of Preferred Stock pursuant to *Section 6*, the Conversion Rights of the shares designated for redemption shall terminate at the

close of business on the last full day preceding the date fixed for redemption, unless the redemption price is not fully paid on such redemption date, in which case the Conversion Rights for such shares shall continue until such price is paid in full. In the event of a liquidation, dissolution or winding up of the Corporation or a Deemed Liquidation Event, the Conversion Rights shall terminate at the close of business on the last full day preceding the date fixed for the payment of any such amounts distributable on such event to the holders of Preferred Stock.

4.2 Fractional Shares. No fractional shares of Common Stock shall be issued upon conversion of the Preferred Stock. In lieu of any fractional shares to which the holder would otherwise be entitled, the Corporation shall pay cash equal to such fraction multiplied by the fair market value of a share of Common Stock as determined in good faith by the Board of Directors of the Corporation. Whether or not fractional shares would be issuable upon such conversion shall be determined on the basis of the total number of shares of Preferred Stock the holder is at the time converting into Common Stock and the aggregate number of shares of Common Stock issuable upon such conversion.

4.3 Mechanics of Conversion.

4.3.1 Notice of Conversion. In order for a holder of Preferred Stock to voluntarily convert shares of Preferred Stock into shares of Common Stock, such holder shall surrender the certificate or certificates for such shares of Preferred Stock (or, if such registered holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate), at the office of the transfer agent for the Preferred Stock (or at the principal office of the Corporation if the Corporation serves as its own transfer agent), together with written notice that such holder elects to convert all or any number of the shares of the Preferred Stock represented by such certificate or certificates and, if applicable, any event on which such conversion is contingent. Such notice shall state such holder's name or the names of the nominees in which such holder wishes the certificate or certificates for shares of Common Stock to be issued. If required by the Corporation, certificates surrendered for conversion shall be endorsed or accompanied by a written instrument or instruments of transfer, in form satisfactory to the Corporation, duly executed by the registered holder or his, her or its attorney duly authorized in writing. The close of business on the date of receipt by the transfer agent (or by the Corporation if the Corporation serves as its own transfer agent) of such certificates (or lost certificate affidavit and agreement) and notice shall be the time of conversion (the "Conversion Time"), and the shares of Common Stock issuable upon conversion of the shares represented by such certificate shall be deemed to be outstanding of record as of such date. The Corporation shall, as soon as practicable after the Conversion Time, (i) issue and deliver to such holder of Preferred Stock, or to his, her or its nominees, a certificate or certificates for the number of full shares of Common Stock issuable upon such conversion in

accordance with the provisions hereof and a certificate for the number (if any) of the shares of Preferred Stock represented by the surrendered certificate that were not converted into Common Stock, (ii) pay in cash such amount as provided in **Subsection 4.2** in lieu of any fraction of a share of Common Stock otherwise issuable upon such conversion and (iii) pay all declared but unpaid dividends on the shares of Preferred Stock converted.

4.3.2 Reservation of Shares. The Corporation shall at all times when the Preferred Stock shall be outstanding, reserve and keep available out of its authorized but unissued capital stock, for the purpose of effecting the conversion of the Preferred Stock, such number of its duly authorized shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding Preferred Stock; and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Preferred Stock, the Corporation shall take such corporate action as may be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes, including, without limitation, engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to the Certificate of Incorporation. Before taking any action which would cause an adjustment reducing the Conversion Price below the then par value of the shares of Common Stock issuable upon conversion of the Preferred Stock, the Corporation will take any corporate action which may, in the opinion of its counsel, be necessary in order that the Corporation may validly and legally issue fully paid and nonassessable shares of Common Stock at such adjusted Conversion Price.

4.3.3 Effect of Conversion. All shares of Preferred Stock which shall have been surrendered for conversion as herein provided shall no longer be deemed to be outstanding and all rights with respect to such shares shall immediately cease and terminate at the Conversion Time, except only the right of the holders thereof to receive shares of Common Stock in exchange therefor, to receive payment in lieu of any fraction of a share otherwise issuable upon such conversion as provided in **Subsection 4.2** and to receive payment of all unpaid Accrued Dividends thereon in the form of additional charges of Common Stock. Any shares of Preferred Stock so converted shall be retired and cancelled and may not be reissued as shares of such series, and the Corporation may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of Preferred Stock accordingly.

4.3.4 No Further Adjustment. Upon any such conversion, no adjustment to the Conversion Price shall be made for any declared but unpaid dividends on the Preferred Stock surrendered for conversion or on the Common Stock delivered upon conversion.

4.3.5 Taxes. The Corporation shall pay any and all issue and other similar taxes that may be payable in respect of any issuance or delivery of shares

of Common Stock upon conversion of shares of Preferred Stock pursuant to this *Section 4*. The Corporation shall not, however, be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of shares of Common Stock in a name other than that in which the shares of Preferred Stock so converted were registered, and no such issuance or delivery shall be made unless and until the person or entity requesting such issuance has paid to the Corporation the amount of any such tax or has established, to the satisfaction of the Corporation, that such tax has been paid.

4.4 Adjustments to Conversion Price for Diluting Issues.

4.4.1 Special Definitions. For purposes of this Article Fourth, the following definitions shall apply:

(a) "*Option*" shall mean rights, options or warrants to subscribe for, purchase or otherwise acquire Common Stock or Convertible Securities.

(b) "*Original Issue Date*" shall mean the date on which the first share of Preferred Stock was issued.

(c) "*Convertible Securities*" shall mean any evidences of indebtedness, shares or other securities directly or indirectly convertible into or exchangeable for Common Stock, but excluding Options.

(d) "*Additional Shares of Common Stock*" shall mean all shares of Common Stock issued (or, pursuant to *Subsection 4.4.3* below, deemed to be issued) by the Corporation after the Original Issue Date, other than (1) the following shares of Common Stock and (2) shares of Common Stock deemed issued pursuant to the following Options and Convertible Securities (*clauses (1) and (2), collectively, "Exempted Securities"*):

(i) shares of Common Stock, Options or Convertible Securities issued as a dividend or distribution on Preferred Stock;

(ii) shares of Common Stock, Options or Convertible Securities issued by reason of a dividend, stock split, split-up or other distribution on shares of Common Stock that is covered by *Subsection 4.5, 4.6, 4.7 or 4.8*;

(iii) up to 44,928 shares of Common Stock, including Options therefor (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization affecting such shares), issued to employees or directors of, or consultants or advisors to, the Corporation or any of its subsidiaries pursuant to any stock options plan of the Corporation, whether issued before or after the Original Issue Date (*provided that any Options for such shares that expire or terminate*

unexercised or any restricted stock repurchased by the Corporation at cost shall not be counted toward such maximum number unless and until such shares are re-granted as new stock grants (or as new Options) pursuant to the terms of any such plan, agreement or arrangement);

(iv) shares of Common Stock, Options or Convertible Securities issued to suppliers or third party service providers in connection with the provision of goods or services pursuant to transactions approved by the Board of Directors of the Corporation, including the Preferred Directors; or

(v) shares of Common Stock, Options or Convertible Securities issued pursuant to the acquisition of another corporation by the Corporation by merger, purchase of substantially all of the assets or other reorganization or to a joint venture agreement, provided, that such issuances are approved by the Board of Directors of the Corporation, including the Preferred Directors.

4.4.2 No Adjustment of Conversion Price. No adjustment in the Conversion Price shall be made as the result of the issuance or deemed issuance of Additional Shares of Common Stock if the Corporation receives written notice from the holders of at least two-thirds of the then outstanding shares of Preferred Stock agreeing that no such adjustment shall be made as the result of the issuance or deemed issuance of such Additional Shares of Common Stock.

4.4.3 Deemed Issue of Additional Shares of Common Stock

(a) If the Corporation at any time or from time to time after the Original Issue Date shall issue any Options or Convertible Securities (excluding Options or Convertible Securities which are themselves Exempted 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 of Common Stock (as set forth in the instrument relating thereto, assuming the satisfaction of any conditions to exercisability, convertibility or exchangeability but without regard to any provision contained therein for a subsequent adjustment of such number) 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, shall be deemed to be Additional Shares of Common Stock issued as of the time of such issue or, in case such a record date shall have been fixed, as of the close of business on such record date.

(b) If the terms of any Option or Convertible Security, the issuance of which resulted in an adjustment to the Conversion Price pursuant to the terms of *Subsection 4.4.4*, are revised as a result of an

amendment to such terms or any other adjustment pursuant to the provisions of such Option or Convertible Security (but excluding automatic adjustments to such terms pursuant to anti-dilution or similar provisions of such Option or Convertible Security) to provide for either (1) any increase or decrease in the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any such Option or Convertible Security or (2) any increase or decrease in the consideration payable to the Corporation upon such exercise, conversion and/or exchange, then, effective upon such increase or decrease becoming effective, the Conversion Price computed upon the original issue of such Option or Convertible Security (or upon the occurrence of a record date with respect thereto) shall be readjusted to such Conversion Price as would have obtained had such revised terms been in effect upon the original date of issuance of such Option or Convertible Security. Notwithstanding the foregoing, no readjustment pursuant to this *clause (b)* shall have the effect of increasing the Conversion Price to an amount which exceeds the lower of (i) the Conversion Price in effect immediately prior to the original adjustment made as a result of the issuance of such Option or Convertible Security, or (ii) the Conversion Price that would have resulted from any issuances of Additional Shares of Common Stock (other than deemed issuances of Additional Shares of Common Stock as a result of the issuance of such Option or Convertible Security) between the original adjustment date and such readjustment date.

(c) If the terms of any Option or Convertible Security (excluding Options or Convertible Securities which are themselves Exempted Securities), the issuance of which did not result in an adjustment to the Conversion Price pursuant to the terms of *Subsection 4.4.4* (either because the consideration per share (determined pursuant to *Subsection 4.4.5*) of the Additional Shares of Common Stock subject thereto was equal to or greater than the Conversion Price then in effect, or because such Option or Convertible Security was issued before the Original Issue Date), are revised after the Original Issue Date as a result of an amendment to such terms or any other adjustment pursuant to the provisions of such Option or Convertible Security (but excluding automatic adjustments to such terms pursuant to anti-dilution or similar provisions of such Option or Convertible Security) to provide for either (1) any increase in the number of shares of Common Stock issuable upon the exercise, conversion or exchange of any such Option or Convertible Security or (2) any decrease in the consideration payable to the Corporation upon such exercise, conversion or exchange, then such Option or Convertible Security, as so amended or adjusted, and the Additional Shares of Common Stock subject thereto (determined in the manner provided in *Subsection 4.4.3(a)*) shall be deemed to have been issued effective upon such increase or decrease becoming effective.

(d) Upon the expiration or termination of any unexercised Option or unconverted or unexchanged Convertible Security (or portion thereof) which resulted (either upon its original issuance or upon a revision of its terms) in an adjustment to the Conversion Price pursuant to the terms of *Subsection 4.4.4*, the Conversion Price shall be readjusted to such Conversion Price as would have obtained had such Option or Convertible Security (or portion thereof) never been issued.

(e) If the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any Option or Convertible Security, or the consideration payable to the Corporation upon such exercise, conversion and/or exchange, is calculable at the time such Option or Convertible Security is issued or amended but is subject to adjustment based upon subsequent events, any adjustment to the Conversion Price provided for in this *Subsection 4.4.3* shall be effected at the time of such issuance or amendment based on such number of shares or amount of consideration without regard to any provisions for subsequent adjustments (and any subsequent adjustments shall be treated as provided in *clauses (b) and (c)* of this *Subsection 4.4.3*). If the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any Option or Convertible Security, or the consideration payable to the Corporation upon such exercise, conversion and/or exchange, cannot be calculated at all at the time such Option or Convertible Security is issued or amended, any adjustment to the Conversion Price that would result under the terms of this *Subsection 4.4.3* at the time of such issuance or amendment shall instead be effected at the time such number of shares and/or amount of consideration is first calculable (even if subject to subsequent adjustments), assuming for purposes of calculating such adjustment to the Conversion Price that such issuance or amendment took place at the time such calculation can first be made.

4.4.4 Adjustment of Conversion Price Upon Issuance of Additional Shares of Common Stock. In the event the Corporation shall at any time after the Original Issue Date issue Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to *Subsection 4.4.3*), without consideration or for a consideration per share less than the applicable Conversion Price in effect immediately prior to such issue, then the Conversion Price shall be reduced, concurrently with such issue, to the consideration per share received by the Corporation for such issue or deemed issue of the Additional Shares of Common Stock; *provided that* if such issuance or deemed issuance was without consideration, then the Corporation shall be deemed to have received an aggregate of \$1 of consideration for all such Additional Shares of Common Stock issued or deemed to be issued.

4.4.5 Determination of Consideration. For purposes of this *Subsection 4.4*, the consideration received by the Corporation for the issue of any Additional Shares of Common Stock shall be computed as follows:

(a) **Cash and Property.** Such consideration shall:

(i) insofar as it consists of cash, be computed at the aggregate amount of cash received by the Corporation, excluding amounts paid or payable for accrued interest;

(ii) insofar as it consists of property other than cash, be computed at the fair market value thereof at the time of such issue, as determined in good faith by the Board of Directors of the Corporation; and

(iii) in the event Additional Shares of Common Stock are issued together with other shares or securities or other assets of the Corporation for consideration which covers both, be the proportion of such consideration so received, computed as provided in *clauses (i) and (ii)* above, as determined in good faith by the Board of Directors of the Corporation.

(b) **Options and Convertible Securities.** The consideration per share received by the Corporation for Additional Shares of Common Stock deemed to have been issued pursuant to *Subsection 4.4.3*, relating to Options and Convertible Securities, shall be determined by dividing

(i) the total amount, if any, received or receivable by the Corporation as consideration for the issue 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 Corporation 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

(ii) 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, 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.

4.4.6 Multiple Closing Dates. In the event the Corporation shall issue on more than one date Additional Shares of Common Stock that are a part of one transaction or a series of related transactions and that would result in an adjustment to the Conversion Price pursuant to the terms of *Subsection 4.4.4* then, upon the final such issuance, the Conversion Price shall be readjusted to give effect to all such issuances as if they occurred on the date of the first such issuance (and without giving effect to any additional adjustments as a result of any such subsequent issuances within such period).

4.5 Adjustment for Stock Splits and Combinations. If the Corporation shall at any time or from time to time after the Original Issue Date effect a subdivision of the outstanding Common Stock, the Conversion Price in effect immediately before that subdivision shall be proportionately decreased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be increased in proportion to such increase in the aggregate number of shares of Common Stock outstanding. If the Corporation shall at any time or from time to time after the Original Issue Date combine the outstanding shares of Common Stock, the Conversion Price in effect immediately before the combination shall be proportionately increased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be decreased in proportion to such decrease in the aggregate number of shares of Common Stock outstanding. Any adjustment under this subsection shall become effective at the close of business on the date the subdivision or combination becomes effective.

4.6 Adjustment for Certain Dividends and Distributions. In the event the Corporation at any time or from time to time after the Original Issue Date shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable on the Common Stock in additional shares of Common Stock, then and in each such event the Conversion Price in effect immediately before such event shall be decreased as of the time of such issuance or, in the event such a record date shall have been fixed, as of the close of business on such record date, by multiplying the Conversion Price then in effect by a fraction:

- (1) the numerator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date, and
- (2) the denominator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date plus the number of shares of Common Stock issuable in payment of such dividend or distribution.

Notwithstanding the foregoing, (a) if such record date shall have been fixed and such dividend is not fully paid or if such distribution is not fully made on the date fixed therefor, the Conversion Price shall be recomputed accordingly as of the close of business on such record date and thereafter the Conversion Price shall be adjusted pursuant to this subsection as of the time of actual payment of such dividends or distributions; and (b) that no such adjustment shall be made if the holders of Preferred Stock simultaneously

receive a dividend or other distribution of shares of Common Stock in a number equal to the number of shares of Common Stock as they would have received if all outstanding shares of Preferred Stock had been converted into Common Stock on the date of such event.

4.7 Adjustments for Other Dividends and Distributions. In the event the Corporation at any time or from time to time after the Original Issue Date shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable in securities of the Corporation (other than a distribution of shares of Common Stock in respect of outstanding shares of Common Stock) or in other property and the provisions of *Section 1* do not apply to such dividend or distribution, then and in each such event provision shall be made so that the holders of the Preferred Stock shall receive upon conversion thereof, in addition to the number of shares of Common Stock receivable thereupon, the kind and amount of securities of the Corporation, cash or other property which they would have been entitled to receive had the 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 conversion date, retained such securities receivable by them as aforesaid during such period, giving application to all adjustments called for during such period under this paragraph with respect to the rights of the holders of the Preferred Stock; *provided, however*, that no such provision shall be made if the holders of Preferred Stock receive, simultaneously with the distribution to the holders of Common Stock, a dividend or other distribution of such securities, cash or other property in an amount equal to the amount of such securities, cash or other property as they would have received if all outstanding shares of Preferred Stock had been converted into Common Stock on the date of such event.

4.8 Adjustment for Merger or Reorganization, etc. Subject to the provisions of *Subsection 2.3*, if there shall occur any reorganization, recapitalization, reclassification, consolidation or merger involving the Corporation in which the Common Stock (but not the Preferred Stock) is converted into or exchanged for securities, cash or other property (other than a transaction covered by *Subsections 4.4, 4.6 or 4.7*), then, following any such reorganization, recapitalization, reclassification, consolidation or merger, each share of Preferred Stock shall thereafter be convertible in lieu of the Common Stock into which it was convertible prior to such event into the kind and amount of securities, cash or other property which a holder of the number of shares of Common Stock of the Corporation issuable upon conversion of one share of Preferred Stock immediately prior to such reorganization, recapitalization, reclassification, consolidation or merger would have been entitled to receive pursuant to such transaction; and, in such case, appropriate adjustment (as determined in good faith by the Board of Directors of the Corporation) shall be made in the application of the provisions in this *Section 4* with respect to the rights and interests thereafter of the holders of the Preferred Stock, to the end that the provisions set forth in this *Section 4* (including provisions with respect to changes in and other adjustments of the Conversion Price) shall thereafter be applicable, as nearly as reasonably may be, in relation to any securities or other property thereafter deliverable upon the conversion of the Preferred Stock.

4.9 Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the Conversion Price pursuant to this *Section 4*, the Corporation at its expense shall, as promptly as reasonably practicable but in any event not later than [10] days thereafter, 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 (including the kind and amount of securities, cash or other property into which the Preferred Stock is convertible) and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, as promptly as reasonably practicable after the written request at any time of any holder of Preferred Stock (but in any event not later than [10] days thereafter), furnish or cause to be furnished to such holder a certificate setting forth (i) the Conversion Price then in effect, and (ii) the number of shares of Common Stock and the amount, if any, of other securities, cash or property which then would be received upon the conversion of Preferred Stock.

4.10 Notice of Record Date. In the event:

(a) the Corporation shall take a record of the holders of its Common Stock (or other capital stock or securities at the time issuable upon conversion of the Preferred Stock) for the purpose of entitling or enabling them to receive any dividend or other distribution, or to receive any right to subscribe for or purchase any shares of capital stock of any class or any other securities, or to receive any other security; or

(b) of any capital reorganization of the Corporation, any reclassification of the Common Stock of the Corporation, or any Deemed Liquidation Event; or

(c) of the voluntary or involuntary dissolution, liquidation or winding-up of the Corporation,

then, and in each such case, the Corporation will send or cause to be sent to the holders of the Preferred Stock a notice specifying, as the case may be, (i) the record date for such dividend, distribution or right, and the amount and character of such dividend, distribution or right, or (ii) the effective date on which such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation or winding-up is proposed to take place, and the time, if any is to be fixed, as of which the holders of record of Common Stock (or such other capital stock or securities at the time issuable upon the conversion of the Preferred Stock) shall be entitled to exchange their shares of Common Stock (or such other capital stock or securities) for securities or other property deliverable upon such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation or winding-up, and the amount per share and character of such exchange applicable to the Preferred Stock and the Common Stock. Such notice shall be sent at least 10 days prior to the record date or effective date for the event specified in such notice.

5. Mandatory Conversion.

5.1 Trigger Events. Upon either (a) the closing of the sale of shares of Common Stock to the public at a price of at least \$5.00 per share (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Common Stock), in a firm-commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, resulting in at least \$10,000,000 of proceeds, net of the underwriting discount and commissions, to the Corporation or (b) the date and time, or the occurrence of an event, specified by vote or written consent of the holders of at least two-thirds of the then outstanding shares of Preferred Stock (the time of such closing or the date and time specified or the time of the event specified in such vote or written consent is referred to herein as the "*Mandatory Conversion Time*"), (i) all outstanding shares of Preferred Stock shall automatically be converted into shares of Common Stock, at the then effective conversion rate and (ii) such shares may not be reissued by the Corporation.

5.2 Procedural Requirements. All holders of record of shares of Preferred Stock shall be sent written notice of the Mandatory Conversion Time and the place designated for mandatory conversion of all such shares of Preferred Stock pursuant to this *Section 5*. Such notice need not be sent in advance of the occurrence of the Mandatory Conversion Time. Upon receipt of such notice, each holder of shares of Preferred Stock shall surrender his, her or its certificate or certificates for all such shares (or, if such holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate) to the Corporation at the place designated in such notice. If so required by the Corporation, certificates surrendered for conversion shall be endorsed or accompanied by written instrument or instruments of transfer, in form satisfactory to the Corporation, duly executed by the registered holder or by his, her or its attorney duly authorized in writing. All rights with respect to the Preferred Stock converted pursuant to *Section 5.1*, including the rights, if any, to receive notices and vote (other than as a holder of Common Stock), will terminate at the Mandatory Conversion Time (notwithstanding the failure of the holder or holders thereof to surrender the certificates at or prior to such time), except only the rights of the holders thereof, upon surrender of their certificate or certificates (or lost certificate affidavit and agreement) therefor, to receive the items provided for in the next sentence of this *Subsection 5.2*. As soon as practicable after the Mandatory Conversion Time and the surrender of the certificate or certificates (or lost certificate affidavit and agreement) for Preferred Stock, the Corporation shall issue and deliver to such holder, or to his, her or its nominees, a certificate or certificates for the number of full shares of Common Stock issuable on such conversion in accordance with the provisions hereof, together with cash as provided in *Subsection 4.2* in lieu of any fraction of a share of Common Stock otherwise issuable upon such conversion and the payment of any Accumulated Dividends on the shares of Preferred Stock converted. Such converted Preferred Stock shall be retired and cancelled and may not be reissued as shares of such series, and the Corporation may thereafter take such appropriate action (without the need for stockholder

action) as may be necessary to reduce the authorized number of shares of Preferred Stock accordingly.

6. Redemption.

6.1 Redemption. Shares of Preferred Stock shall be redeemed by the Corporation out of funds lawfully available therefor at a price equal to the Original Issue Price per share, plus any Accruing Dividends accrued but unpaid thereon, whether or not declared, together with any other dividends declared but unpaid thereon (the "*Redemption Price*"), in three annual installments commencing not more than 60 days after receipt by the Corporation at any time on or after March 13, 2020, from the holders of at least two-thirds of the then outstanding shares of Preferred Stock, of written notice requesting redemption of all shares of Preferred Stock. The date of each such installment shall be referred to as a "*Redemption Date*." On each Redemption Date, the Corporation shall redeem, on a pro rata basis in accordance with the number of shares of Preferred Stock owned by each holder, that number of outstanding shares of Preferred Stock determined by dividing (i) the total number of shares of Preferred Stock outstanding immediately prior to such Redemption Date by (ii) the number of remaining Redemption Dates (including the Redemption Date to which such calculation applies); *provided, however*, that Excluded Shares (as such term is defined in *Subsection 6.2*) shall not be redeemed and shall be excluded from the calculations set forth in this sentence. If the Corporation does not have sufficient funds legally available to redeem on any Redemption Date all shares of Preferred Stock to be redeemed on such Redemption Date, the Corporation shall redeem a pro rata portion of each holder's redeemable shares of such capital stock out of funds legally available therefor, based on the respective amounts which would otherwise be payable in respect of the shares to be redeemed if the legally available funds were sufficient to redeem all such shares, and shall redeem the remaining shares to have been redeemed as soon as practicable after the Corporation has funds legally available therefor.

6.2 Redemption Notice. The Corporation shall send written notice of the mandatory redemption (the "*Redemption Notice*") to each holder of record of Preferred Stock not less than 40 days prior to each Redemption Date. Each Redemption Notice shall state:

- (a) the number of shares of Preferred Stock held by the holder that the Corporation shall redeem on the Redemption Date specified in the Redemption Notice;
- (b) the Redemption Date and the Redemption Price;
- (c) the date upon which the holder's right to convert such shares terminates (as determined in accordance with *Subsection 4.1*); and
- (d) that the holder is to surrender to the Corporation, in the manner and at the place designated, his, her or its certificate or certificates representing the shares of Preferred Stock to be redeemed.

If the Corporation receives, on or prior to the 20th day after the date of delivery of the Redemption Notice to a holder of Preferred Stock, written notice from such holder that such holder elects to be excluded from the redemption provided in this *Section 6*, then the shares of Preferred Stock registered on the books of the Corporation in the name of such holder at the time of the Corporation's receipt of such notice shall thereafter be "*Excluded Shares*." Excluded Shares shall not be redeemed or redeemable pursuant to this *Section 6*, whether on such Redemption Date or thereafter.

6.3 Surrender of Certificates; Payment. On or before the applicable Redemption Date, each holder of shares of Preferred Stock to be redeemed on such Redemption Date, unless such holder has exercised his, her or its right to convert such shares as provided in *Section 4*, shall surrender the certificate or certificates representing such shares (or, if such registered holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate) to the Corporation, in the manner and at the place designated in the Redemption Notice, and thereupon the Redemption Price for such shares shall be payable to the order of the person whose name appears on such certificate or certificates as the owner thereof. In the event less than all of the shares of Preferred Stock represented by a certificate are redeemed, a new certificate representing the unredeemed shares of Preferred Stock shall promptly be issued to such holder.

6.4 Rights Subsequent to Redemption. If the Redemption Notice shall have been duly given, and if on the applicable Redemption Date the Redemption Price payable upon redemption of the shares of Preferred Stock to be redeemed on such Redemption Date is paid or tendered for payment or deposited with an independent payment agent so as to be available therefor in a timely manner, then notwithstanding that the certificates evidencing any of the shares of Preferred Stock so called for redemption shall not have been surrendered, dividends with respect to such shares of Preferred Stock shall cease to accrue after such Redemption Date and all rights with respect to such shares shall forthwith after the Redemption Date terminate, except only the right of the holders to receive the Redemption Price without interest upon surrender of their certificate or certificates therefor.

7. Redeemed or Otherwise Acquired Shares. Any shares of Preferred Stock that are redeemed or otherwise acquired by the Corporation or any of its subsidiaries shall be automatically and immediately cancelled and retired and shall not be reissued, sold or transferred. Neither the Corporation nor any of its subsidiaries may exercise any voting or other rights granted to the holders of Preferred Stock following redemption.

8. Waiver. Any of the rights, powers, preferences and other terms of the Preferred Stock set forth herein may be waived on behalf of all holders of Preferred Stock by the affirmative written consent or vote of the holders of at least two-thirds of the shares of Preferred Stock then outstanding.

9. **Notices.** Any notice required or permitted by the provisions of this Article Fourth to be given to a holder of shares of Preferred Stock shall be mailed, postage prepaid, to the post office address last shown on the records of the Corporation, or given by electronic communication in compliance with the provisions of the General Corporation Law, and shall be deemed sent upon such mailing or electronic transmission.

IN WITNESS WHEREOF, the undersigned, being the President of the Corporation, executes this Certificate of Designations subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument.



Len Wright, *President*
Dated: March 12, 2008

**CERTIFICATE OF CORRECTION
OF
GLOBAL PHYSICS SOLUTIONS, INC.**

Global Physics Solutions, Inc., a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware ("DGCL"), submits this Certificate of Correction to correct a document that contains inaccurate, erroneous, or defective information, and does hereby certify that:

ARTICLE 1

The name of the corporation is: Global Physics Solutions, Inc. (the "*Corporation*").

ARTICLE 2

The Corporation's Amended and Restated Certificate of Incorporation was filed by the Secretary of State of Delaware on March 13, 2008, and that said Amended and Restated Certificate of Incorporation requires correction as permitted by Section 103 of the DGCL.

ARTICLE 3

The inaccuracies, errors, or defects to be corrected relate to the following matters:

The number of shares of stock of all classes which the Corporation has authority to issue. The Amended and Restated Certificate of Formation states that the Corporation has authority to issue 45,000,000 shares of stock, 30,000,000 of which are common shares and 15,000,000 of which are preferred shares. The number of shares of stock that the Company is authorized to issue should have been 4,500,000, of which 3,000,000 are common shares and 1,500,000 are preferred shares. This Certificate of Correction is intended to correct these inaccuracies.

ARTICLE 4

As corrected, the inaccurate, erroneous, or defective sections of the Amended and Restated Certificate of Incorporation should read in their entirety as follows:

The second certification in the preamble to the Amended and Restated Certificate of Incorporation is hereby corrected to read as follows:

"SECOND: That the board of directors of the Corporation duly adopted resolutions proposing to amend and restate the Certificate of Incorporation of the Corporation, declaring said amendment and restatement to be advisable and in the best interests of the Corporation and its stockholders, and authorizing the appropriate officers of the Corporation to solicit the consent of the stockholders therefore. The resolutions setting forth the proposed amendment and restatement (i) increase the total number of shares of Common Stock which the Corporation has authority to issue to 3,000,000 shares, (ii) authorizes a new class of Preferred Stock of the Corporation consisting of 1,500,000 shares of the par value of \$.01 each, and (iii) declare that the 1,000 presently outstanding shares of Common Stock be split into 73,756 outstanding shares of

Common Stock by splitting each outstanding share of Common Stock into 73.756 shares of Common Stock. The resolution is as follows:"

The first paragraph of Section 5.1 of Article V of the Amended and Restated Certificate of Incorporation is hereby corrected to read as follows:

"5.1 **Authorized Stock.** The total number of shares of stock of all classes which the Corporation shall have authority to issue is 4,500,000 shares consisting of (i) 3,000,000 shares of common stock, par value \$.01 per share ("*Common Stock*"), and (ii) 1,500,000 shares of preferred stock, par value \$.01 per share ("*Preferred Stock*"). The Corporation may issue shares of any class or series of its capital stock from time to time for such consideration and for such corporate purposes as the Board of Directors of the Corporation (the "*Board of Directors*") may from time to time determine. Each one share of the Corporation's Common Stock outstanding as of the effective time of this Amended and Restated Certificate of Incorporation shall be changed and reclassified into 73.756 fully paid and nonassessable shares of the Corporation's Common Stock without any further action by the stockholders or Board of Directors of the Corporation."

IN WITNESS WHEREOF, the undersigned has signed this Certificate of Correction on this the 17th day of April, 2009.

By: GCN Noble
Glenn Noble, *Chief Financial Officer*

**CERTIFICATE OF CORRECTION
OF
GLOBAL PHYSICS SOLUTIONS, INC.**

Global Physics Solutions, Inc., a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware ("DGCL"), submits this Certificate of Correction to correct a document that contains inaccurate, erroneous, or defective information, and does hereby certify that:

ARTICLE 1

The name of the corporation is: Global Physics Solutions, Inc. (the "*Corporation*").

ARTICLE 2

The Corporation's Certificate of Designations of Convertible Preferred Stock was filed by the Secretary of State of Delaware on March 13, 2008 (the "*Certificate of Designations*"), and that said Certificate of Designations requires correction as permitted by Section 103 of the DGCL.

ARTICLE 3

The inaccuracies, errors, or defects to be corrected relate to the following matters:

The number of shares of the Corporation's convertible preferred stock, par value \$.01 per share, that is designated, created, authorized and provided for issuance by the Corporation's board of directors should be 1,500,000 shares instead of 10,000,000 shares. This Certificate of Correction is intended to correct this inaccuracy.

ARTICLE 4

As corrected, the inaccurate, erroneous, or defective section of the Certificate of Designations should read in its entirety as follows:

The resolution at the beginning of the Certificate of Designations is hereby corrected to read as follows:

"RESOLVED, that pursuant to the authority vested in the Board of Directors by the Certificate of Incorporation, the Board of Directors does hereby designate, create, authorize and provide for the issue of a series of the Company's preferred stock, par value \$0.01 per share, with a liquidation preference of \$10 per share, plus an amount equal to the sum of all accumulated and unpaid dividends, subject to adjustment as provided in Section 15(ii) hereof, which shall be designated as Convertible Preferred Stock (the "*Preferred Stock*") consisting of 1,500,000 shares, no shares of which have heretofore been issued by the Company, having the following powers, designations, preferences and relative, participating, optional and other special rights, and qualifications, limitations and restrictions thereof:"

IN WITNESS WHEREOF, the undersigned has signed this Certificate of Correction on this the 29th day of April, 2009.

By: GLN. Noble
Glenn Noble, *Chief Financial Officer*

**STATE OF DELAWARE
CERTIFICATE OF CHANGE
OF REGISTERED AGENT AND/OR
REGISTERED OFFICE**

The Board of Directors of Global Physics Solutions, Inc.,
a Delaware Corporation, on this 20th day of
August, A.D. 2010, do hereby resolve and order that the
location of the Registered Office of this Corporation within this State be, and the
same hereby is Corporation Trust Center
1209 Orange Street, in the City of Wilmington
County of New Castle Zip Code 19801.

The name of the Registered Agent therein and in charge thereof upon whom
process against this Corporation may be served, is THE CORPORATION TRUST COMPANY.

The Corporation does hereby certify that the foregoing is a true copy of a
resolution adopted by the Board of Directors at a meeting held as herein stated.

IN WITNESS WHEREOF, said Corporation has caused this certificate to be
signed by an authorized officer, the 23rd day of August,
A.D., 2010.

By: [Signature]
Authorized Officer

Name: Jonathan M. Singer
Print or Type

Title: CFO & Secretary

**SECOND AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
GLOBAL PHYSICS SOLUTIONS, INC.**

**(Pursuant to Sections 242 and 245 of the
General Corporation Law of the State of Delaware)**

Global Physics Solutions, Inc., a corporation organized and existing under and by virtue of the provisions of the General Corporation Law of the State of Delaware (the "DGCL"),

DOES HEREBY CERTIFY:

FIRST: That the name of this corporation is Global Physics Solutions, Inc. (the "Corporation") and that this corporation was originally incorporated pursuant to the DGCL on January 15, 2008.

SECOND: That the board of directors of the Corporation duly adopted resolutions proposing to amend and restate the Certificate of Incorporation of the Corporation, declaring said amendment and restatement to be advisable and in the best interests of the Corporation and its stockholders, and authorizing the appropriate officers of the Corporation to solicit the consent of the stockholders therefore. The resolutions setting forth the proposed amendment and restatement (i) decrease the total number of shares of Common Stock which the Corporation has authority to issue to 1,000 shares, (ii) eliminate the authorized Preferred Stock of the Corporation and any references thereto, and (iii) declare that the 1,065,973 presently outstanding shares of Common Stock be combined into a total of 1,000 outstanding shares of Common Stock by exchanging each outstanding share of Common Stock for 0.00093811 shares of Common Stock. The resolution is as follows:

RESOLVED, that the Certificate of Incorporation of the Corporation be amended and restated in its entirety as follows:

**ARTICLE I
NAME**

1.1 **Name.** The name of the corporation is Global Physics Solutions, Inc. (the "Corporation").

**ARTICLE II
REGISTERED OFFICE AND REGISTERED AGENT**

2.1 **Address and Name.** The Corporation's registered office in the State of Delaware is 1209 Orange Street, Wilmington, Delaware 19801 in New Castle County. The name of its registered agent at such address is The Corporation Trust Company.

ARTICLE III EXISTENCE

3.1 **Term.** The existence of the Corporation shall be perpetual.

ARTICLE IV PURPOSE

4.1 **Purpose.** The purpose of the Corporation shall be to engage in any lawful act or activity for which corporations may be organized under the DGCL.

ARTICLE V AUTHORIZED STOCK

5.1 **Authorized Stock.** The total number of shares of stock of all classes which the Corporation shall have authority to issue is 1,000 shares of common stock, par value \$.01 per share ("*Common Stock*"). The Corporation may issue shares of common stock from time to time for such consideration and for such corporate purposes as the Board of Directors of the Corporation (the "*Board of Directors*") may from time to time determine. Each one share of the Corporation's Common Stock outstanding as of the effective time of this Amended and Restated Certificate of Incorporation shall be changed and reclassified into 0.00093811 fully paid and nonassessable shares of the Corporation's Common Stock without any further action by the stockholders or Board of Directors of the Corporation.

The following is a statement of the powers, preferences and rights, and the qualifications, limitations or restrictions, of the Common Stock.

(a) **Common Stock.**

(i) *Dividends.* Subject to any other provisions of this Certificate of Incorporation, holders of Common Stock shall be entitled to receive such dividends and other distributions in cash, stock of the Corporation, or other property of the Corporation as may be declared thereon by the Board of Directors from time to time out of assets or funds of the Corporation legally available therefor and shall share equally on a per share basis in all such dividends and other distributions.

(ii) *Distribution of Assets.* In the event of any dissolution, liquidation or winding up of the affairs of the Corporation, whether voluntary or involuntary, the remaining assets and funds of the Corporation shall be distributed equally on a per share basis to the holders of Common Stock. For purposes of this Section 5.1(a)(ii), the voluntary sale, conveyance, lease, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the assets of the Corporation or a consolidation or merger of the Corporation with one or more other corporations or other entities (whether or not the Corporation is the corporation surviving such consolidation or merger) shall not be deemed to be a liquidation, dissolution or winding up, voluntary or involuntary.

(iii) *Voting Rights.* In connection with the election of directors and all other matters submitted to a vote of stockholders at any meeting of the stockholders of the Corporation, every holder of Common Stock shall be entitled to one vote in person or by proxy for each share of Common Stock standing in his or her name on the transfer books of the Corporation, except as otherwise provided by law. The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares of Common Stock then outstanding) by the affirmative vote of the holders of a majority of the shares of Common Stock outstanding and entitled to vote thereon, except as otherwise provided by law.

(b) Other Provisions Applicable to the Corporation's Capital Stock.

(i) *Preemptive Rights.* No holder of any Common Stock of the Corporation shall be entitled to the right to purchase or subscribe for any part of any unissued or treasury stock of the Corporation, or of any additional stock of any class, to be issued by reason of any increase of the authorized capital stock of the Corporation, or to be issued from any unissued or additionally authorized stock, or of bonds, certificates of indebtedness, debentures or other securities convertible into stock of the Corporation, but any such unissued or treasury stock, or any such additionally authorized issue of new stock or securities convertible into stock, may be issued and disposed of by the Board of Directors to such persons, firms, corporations or associations, and upon such terms as the Board of Directors may, in its discretion, determine, without offering to the stockholders then of record, or any class of stockholders, any thereof, on the same terms or any terms.

(ii) *Voting Rights.* All rights to vote and all voting power (including, without limitation thereto, the right to elect directors) shall be vested exclusively in the holders of Common Stock, except as otherwise expressly provided in this Certificate of Incorporation or as otherwise expressly required by applicable law.

(iii) *Cumulative Voting.* No stockholder shall be entitled to exercise any right of cumulative voting.

ARTICLE VI MANAGEMENT AND GOVERNANCE

6.1 **General.** This Article 6 contains provisions for the management of the business and for the conduct of the affairs of the Corporation, and provisions creating, defining, limiting and regulating the powers of the Corporation, its directors, and the stockholders of any class of the Corporation's stock.

6.2 **Bylaws.** The Board of Directors is expressly authorized to alter, amend or repeal the bylaws of the Corporation, or to adopt new bylaws.

6.3 **Election of Directors.** Election of Directors need not be by written ballot unless the bylaws of the Corporation so provide.

6.4 **Stockholder Action by Written Consent.** Any action required or permitted to be taken at any annual or special meeting of stockholders may be taken without a meeting,

without prior written notice and without a vote if a consent or consents in writing setting forth the action to be so taken shall be signed by not less than all of the stockholders entitled to consent to corporate action in writing on the record date for such consent or consents. If permitted by the Corporation's bylaws, an electronic transmission shall be deemed to be a written consent provided such electronic submission meets the applicable requirement of the Corporation's bylaws and the DGCL.

ARTICLE VII LIMITATION OF DIRECTOR LIABILITY

7.1 **Exoneration.** No director of the Corporation shall be personally liable to the Corporation or to its stockholders for monetary damages for breach of fiduciary duty as a director, provided that this Article VII shall not eliminate or limit the liability of a director:

- (i) for any breach of the director's duty of loyalty to the Corporation or its stockholders;
- (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law;
- (iii) under Section 174 of the DGCL, as it may hereafter be amended from time to time, for any unlawful payment of a dividend or unlawful stock purchase or redemption; or
- (iv) for any transaction from which the director derived an improper personal benefit

If the DGCL is amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the DGCL, as so amended. No amendment to or repeal of this Article will apply to, or have any effect on, the liability or alleged liability of any director of the Corporation for or with respect to any acts or omissions of the director occurring prior to such amendment or repeal.

ARTICLE VIII INDEMNIFICATION

8.1 **Mandatory Indemnification in Non-Derivative Proceedings.** The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation) by reason of the fact that the person is or was a director or officer of the Corporation against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its

equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

8.2 Mandatory Indemnification in Derivative Proceedings. The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that he is or was a director or officer of the Corporation against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if such person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the Corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the Corporation unless and only to the extent that the Court of Chancery of the State of Delaware or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

8.3 Mandatory Indemnification Upon Successful Defense. To the extent that a present or former director or officer of the Corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Sections 8.1 and 8.2 hereof, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith.

8.4 Determination of Entitlement to Indemnification. Any indemnification under Sections 8.1 and 8.2 hereof (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the present or former director or officer is proper in the circumstances because the person has met the applicable standard of conduct set forth in Sections 8.1 and 8.2 hereof. Such determination shall be made with respect to a person who is a director or officer at the time of such determination, (i) by a majority vote of the directors who are not parties to such action, suit or proceeding, even though less than a quorum, or (ii) by a committee of such directors designated by majority vote of such directors, even though less than a quorum, or (iii) if there are no such directors, or if such directors so direct, by independent legal counsel in a written opinion, or (iv) by the stockholders of the Corporation.

8.5 Advancement of Expenses. Expenses (including attorneys' fees) incurred by an officer or director in defending any civil, criminal, administrative or investigative action, suit or proceeding shall be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such director or officer to repay such amount if it shall ultimately be determined that such person is not entitled to be indemnified by the Corporation pursuant to this Article 8. Such expenses (including attorneys' fees) incurred by former directors and officers may be so paid upon such terms and conditions, if any, as the Corporation deems appropriate.

8.6 Permissive Indemnification. The rights to indemnification and advancement of expenses which are conferred upon the Corporation's directors and officers by this Article 8 may also be conferred upon any person who is or was a non-officer employee or agent of the Corporation and upon any person who is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise if, and to the extent, specifically authorized by the Board of Directors.

8.7 Other Rights Not Impaired. The indemnification and advancement of expenses provided by, or granted pursuant to, other Sections of this Article 8 shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any law, bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in an official capacity and as to action in another capacity while holding such office.

8.8 Certain References. (a) For purposes of this Article 8, references to "the Corporation" shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, employees or agents so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this Article 8 with respect to the resulting or surviving corporation as he would have with respect to such constituent corporation if its separate existence had continued.

(b) For purposes of this Article 8, references to "other enterprises" shall include employee benefit plans; references to "fines" shall include any excise taxes assessed on a person with respect to an employee benefit plan; and references to "serving at the request of the Corporation" shall include any service as a director, officer, employee or agent of the Corporation which imposes duties on, or involves service by, such director, officer, employee or agent with respect to any employee benefit plan, its participants, or beneficiaries; and a person who acted in good faith and in a manner he reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interests of the Corporation" as referred to in this Article 8.

8.9 Rights After Termination of Status. The indemnification and advancement of expenses provided by, or granted pursuant to, this Article 8 shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

8.10 Insurance for Indemnification. The Corporation shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Corporation

has the power to indemnify such person against such liability under this Article 8 or the provisions of the DGCL.

8.11 Other Arrangements for Indemnification. Without limiting the power of the Corporation to procure or maintain insurance or other arrangement on behalf of any person, the Corporation may, for the benefit of persons eligible for indemnification by the Corporation, (i) create a trust fund, (ii) establish any form of self-insurance, (iii) secure its indemnity obligation by grant of a security interest or other lien on the assets of the Corporation or (iv) establish a letter of credit, guaranty or surety arrangement.

ARTICLE IX DGCL SECTION 203

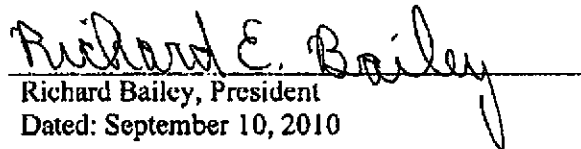
9.1 The Corporation elects to not be governed by Section 203 of the DGCL.

THIRD: The foregoing amendment and restatement was approved by the sole stockholder of the Corporation in accordance with Section 228 of the DGCL.

FOURTH: That said amendment and restatement was duly adopted in accordance with the provisions of Section 242 and 245 of the DGCL.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned, being the President of the Corporation, executes this Amended and Restated Certificate of Corporation subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument.


Richard Bailey, President
Dated: September 10, 2010