

APPLICATION FOR AUTHORITY OF FOREIGN CORPORATION

ENTITY INFORMATION

ENTITY NAME: BROADBAND TELCOM POWER, INC.
ENTITY ID: 23635169
ENTITY TYPE: Foreign For-Profit (Business) Corporation
EFFECTIVE DATE: 01/26/2024
FOREIGN DOMICILE STATE: California
DATE OF FORMATION IN FOREIGN DOMICILE: 04/26/1999

DURATION: Perpetual
TRUE NAME IN FOREIGN DOMICILE:
PURPOSE:
CHARACTER OF BUSINESS: Designs and manufactures electric vehicle chargers.
None of this activity will take place in AZ
AUTHORIZED SHARES: Share Class: Common Share Series: Share Total: 100
ISSUED SHARES: Share Class: Common Share Series: Share Total: 100

STATUTORY AGENT INFORMATION

STATUTORY AGENT NAME: Registered Agent Solutions, Inc.
PHYSICAL ADDRESS: 300 W. Clarendon Ave. Ste 240, PHOENIX, AZ 85013
MAILING ADDRESS: 300 W. Clarendon Ave. Ste 240, PHOENIX, AZ 85013

KNOWN PLACE OF BUSINESS

Att: Registered Agent Solutions, Inc., 300 W. Clarendon Ave. Suite 240, PHOENIX, AZ 85013

PRINCIPAL OFFICE ADDRESS

1719 S. Grand Ave, SANTA ANA, CA 92705

PRINCIPAL INFORMATION

CEO (Chief Executive Officer): Frank Meza - 1719 S. GRAND AVE, SANTA ANA, CA, 92705, USA - - Date of Taking Office:
Director: Alan Bevan - 1719 S. GRAND AVE, SANTA ANA, CA, 92705, USA - - Date of Taking Office:
Director: Francisco Meza - 1719 S. GRAND AVE, SANTA ANA, CA, 92705, USA - - Date of Taking Office:
Director: Jan Wiederstein - 1719 S. GRAND AVE, SANTA ANA, CA, 92705, USA - - Date of Taking Office:
Director: Konrad T Konczewski - 1719 S. GRAND AVE, SANTA ANA, CA, 92705, USA - - Date of Taking Office:
Other Officer: Carlos Cortes - 1719 S. GRAND AVE, SANTA ANA, CA, 92705, USA - - Date of Taking Office:
Other Officer: David Silberfarb - 1719 S. GRAND AVE, SANTA ANA, CA, 92705, USA - - Date of Taking Office:
Other Officer: Michael Wagner - 1719 S. GRAND AVE, SANTA ANA, CA, 92705, USA - - Date of Taking Office:
Other Officer: Thomas Rendina - 1719 S. GRAND AVE, SANTA ANA, CA, 92705, USA - - Date of Taking Office:
Secretary: Konrad Konczewski - 1719 S. GRAND AVE, SANTA ANA, CA, 92705, USA - - Date of Taking Office:

SIGNATURE

Other Officer: Thomas Rendina - 01/26/2024



California Secretary of State

Business Programs Division

1500 11th Street, Sacramento, CA 95814

Request Type: Certified Copies

Entity Name: BROADBAND TELCOM POWER, INC.

Formed In: CALIFORNIA

Entity No.: 2161727

Entity Type: Stock Corporation - CA - General

Issuance Date: 01/22/2024

Copies Requested: 1

Receipt No.: 006037623

Certificate No.: 175540824

Document Listing

Reference #	Date Filed	Filing Description	Number of Pages
17939537-1	04/26/1999	Initial Filing	1
17939538-1	08/16/1999	Amendment	1
17939539-1	01/07/2000	Restated Articles of Incorporation	6
17939540-1	04/13/2000	Restated Articles of Incorporation	14
17939541-1	10/05/2000	Restated Articles of Incorporation	14
17939542-1	12/20/2000	Restated Articles of Incorporation	15
17939543-1	01/30/2002	Restated Articles of Incorporation	17
17939545-1	07/26/2017	Amendment	2
17939546-1	03/12/2018	Amendment	1
17939547-1	06/29/2018	Legacy Merger	4

** **** ***** ***** End of list ***** ***** **** **

I, SHIRLEY N. WEBER, PH.D., California Secretary of State, do hereby certify on the Issuance Date, the attached document(s) referenced above are true and correct copies and were filed in this office on the date(s) indicated above.



IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California on January 22, 2024.

SHIRLEY N. WEBER, PH.D.
Secretary of State

To verify the issuance of this Certificate, use the Certificate No. above with the Secretary of State Certification Verification Search available at bizfileOnline.sos.ca.gov.

2161727

or the State of California

ARTICLES OF INCORPORATION

OF

APR 26 1999

BTC POWER ELECTRONICS CORPORATION



BILL JONES, Secretary of State

ARTICLE I

The name of this corporation is BTC Power Electronics Corporation (the "Corporation").

ARTICLE II

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

ARTICLE III

The name and address in the State of California of the Corporation's initial agent for service of process is:

Name : James Leych LAU

Address : 489 Sinclair Frontage Road, Milpitas, CA 95035.

ARTICLE IV

(a) The Corporation is authorized to issue two classes of shares of stock, to be designated respectively "Common Stock" and "Preferred Stock"; Twenty Million (20,000,000) shares of the Common Stock, with par value of \$0.001 per share, may be issued. Ten Million (10,000,000) shares of the Preferred Stock may be issued.

(b) The shares of Preferred Stock authorized by these Articles of Incorporation may be issued from time to time in one or more series. The Board of Directors shall fix the designation and number of shares of each such series. The Board of Directors is authorized to determine or alter any or all of the rights, preferences, privileges, and restrictions granted to or imposed upon any wholly unissued series of shares of Preferred Stock, and to fix or alter the number of shares comprising any such series and the designation thereof, or any of them, and to provide for rights and terms of redemption or conversion of the shares of any such series.

ARTICLE V

(a) The liability of the directors of the Corporation for monetary damages shall be eliminated to the fullest extent permissible under California law.

(b) The Corporation is authorized to provide indemnification of agents (as defined in Section 317 of the California Corporations Code) to the fullest extent permissible under California law.

(c) Any amendment or repeal or modification of the foregoing provisions of this Article V by the shareholders of the corporation shall not adversely affect any right or protection of a director of the corporation existing at the time of such repeal or modification.

Dated: APRIL 26, 99


James Leych LAU, Incorporator

2161727
CERTIFICATE OF AMENDMENT
OF
ARTICLES OF INCORPORATION
OF
BTC POWER ELECTRONICS CORPORATION

FILED *Je*
In the office of the Secretary of State
of the State of California

AUG 16 1999

Bill Jones
BILL JONES, Secretary of State

The undersigned certify that:

1. They are the president and the secretary, respectively, of BTC Power Electronics Corporation, a California Corporation.
2. Article I of the Articles of Incorporation of this corporation is amended to read as follows:

The name of this corporation is Broadband TelCom Power, Inc.
3. The foregoing amendment of Articles of Incorporation has been duly approved by the board of directors.
4. The foregoing amendment of Articles of Incorporation has been duly approved by the required vote of shareholders in accordance with section 902, California Corporations Code. The total number of outstanding shares of the corporation is 1,400,000. The number of shares voting in favor of the amendment equaled or exceeded the vote required. The percentage vote required was more than 50%.

We further declare under penalty of perjury under the laws of the State of California that the matters set forth in this certification are true and correct of my own knowledge.

Date: July 22, 1999

James L. Lau
James L. Lau, CEO and President

Peter H.M. Chang
Peter H.M. Chang, Secretary

2161727
AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
BROADBAND TELCOM POWER, INC.

FILED *NEP*
In the office of the Secretary of State
of the State of California
JAN 07 2003
Bill Jones
BILL JONES, Secretary of State

A California corporation

The undersigned certify that:

1. They are the president and secretary, respectively, of Broadband TelCom Power, Inc., the name under which the corporation was originally incorporated was BTC Power Electronics Corporation, filed with the Secretary of State of California on April 26, 1999.
2. The Articles of Incorporation of the corporation are hereby amended and restated to read as follows:

ARTICLE I

The name of the corporation is Broadband TelCom Power, Inc.

ARTICLE II

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

ARTICLE III

The name and address in the State of California of the corporation's initial agent for service of process is:

James Leych Lau
Broadband TelCom Power, Inc.
489 Sinclair Frontage Road
Milpitas, CA 95035

ARTICLE IV

The corporation is authorized to issue two classes of shares designated "Preferred Stock" and "Common Stock," respectively. The number of shares of Preferred Stock authorized to be issued is ten million (10,000,000) and the number of shares of Common Stock authorized to be issued is twenty million (20,000,000). The Common Stock shall have a par value of \$0.001 per share. The Preferred Stock may be divided into such number of series as the Board of Directors may determine. The Board of Directors is authorized to determine and alter the number of shares, rights, preferences, privileges and restrictions granted to and imposed upon any wholly unissued

series of Preferred Stock, and to fix the number of shares of any series of Preferred Stock and the designation of any such series of Preferred Stock. The Board of Directors, within the limits and restrictions stated in any resolution or resolutions of the Board of Directors originally fixing the number of shares constituting any series, may increase or decrease (but not below the number of shares of such series then outstanding) the number of shares of any series subsequent to the issue of shares of that series.

(1). Number of Shares. The series of Preferred Stock designated and known as "Series A Preferred Stock" shall consist of 1,500,000 shares.

(2). Voting

(A). General. Except as may be otherwise provided in these terms of the Series A Preferred Stock or by law, the Series A Preferred Stock shall vote together with all other classes and series of stock of the Corporation as a single class on all actions to be taken by the stockholders of the Corporation. Each share of Series A Preferred Stock shall entitle the holder thereof to such number of votes per share on each such action as shall equal the number of shares of Common Stock (including fractions of a share) into which each share of Series A Preferred Stock is then convertible.

(B). Board Size. The Corporation shall not, without the written consent or affirmative vote of the holders of at least a majority of the then outstanding shares of Series A Preferred Stock (voting on an as-converted basis), given in writing or by vote at a meeting, consenting or voting (as the case may be) as a single class, increase the maximum number of directors constituting the Board of Directors to a number in excess of seven.

(C). Board Seats. The holders of the Series A Preferred Stock, voting as a separate series, shall be entitled to elect one director of the Corporation. The holders of Series A Preferred Stock and Common Stock, voting together as a single class, shall be entitled to elect the remainder of the directors of the Corporation. At any meeting (or in a written consent in lieu thereof) held for the purpose of electing directors, the presence in person or by proxy (or the written consent) of the holders of a majority of the shares of any series of Preferred Stock then outstanding shall constitute a quorum of such series of Preferred Stock for the election of directors to be elected solely by the holders of such series of Preferred Stock. A vacancy in any directorship elected solely by the holders of a series of Preferred Stock shall be filled only by vote or written consent of the holders of such series.

(3). Dividends. The holders of the Series A Preferred Stock shall be entitled to receive, in preference to the holders of shares of Common Stock, out of funds legally available therefor, when and if declared by the Board of Directors, dividends at the rate of 10% per annum, on \$1.00 per share (appropriately adjusted for stock splits, dividends and the like), compounded annually (the "Accruing Dividends"). No rights shall accrue to holders of shares of Series A Preferred Stock by reason of the fact that dividends on such shares are not declared in any prior year, nor shall any undeclared or unpaid dividend bear or accrue any interest.

(4). Liquidation. Upon any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, the holders of the shares of Series A Preferred Stock shall first be entitled, before any distribution or payment is made upon any stock ranking on liquidation junior to the Series A Preferred Stock, to be paid an amount equal to \$1.00 per share (appropriately adjusted for stock splits, dividends and the like) plus, in the case of each share, an amount equal to all

Accruing Dividends (but only if any such Accruing Dividends are required to be declared and paid pursuant to Section 3 above) unpaid thereon (whether or not declared) and any other dividends declared but unpaid thereon, computed to the date payment thereof is made available, such amount payable with respect to one share of Series A Preferred Stock being sometimes referred to as the "Series A Liquidation Preference Payment" and with respect to all shares of Series A Preferred Stock being sometimes referred to as the "Preferred Stock Liquidation Preference Payments." If upon such liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, the assets to be distributed among the holders of Series A Preferred Stock shall be insufficient to permit payment in full to the holders of Series A Preferred Stock of the Preferred Stock Liquidation Preference Payments, then the entire assets of the Corporation to be so distributed shall be distributed ratably among the holders of Series A Preferred Stock in proportion to the product of the liquidation preference of each share and the number of such shares owned by each such holder. Upon any such liquidation, dissolution or winding up of the Corporation, immediately after the holders of Series A Preferred Stock shall have been paid in full the Preferred Stock Liquidation Preference Payments, the remaining net assets of the Corporation shall be distributed ratably among the holders of Series A Preferred Stock and Common Stock (with each share of Series A Preferred Stock being deemed, for such purpose, to be equal to the number of shares of Common Stock (including fractions of a share) into which such share of Series A Preferred Stock is convertible immediately prior to the close of business on the business day fixed for such distribution). Written notice of such liquidation, dissolution or winding up, stating a payment date and the place where said payments shall be made, shall be delivered in person, mailed by certified or registered mail, return receipt requested, or sent by telecopier or telex, not less than twenty (20) days prior to the payment date stated therein, to the holders of record of Series A Preferred Stock such notice to be addressed to each such holder at its address as shown by the records of the Corporation.

(5). Conversions. The holders of shares of Series A Preferred Stock shall have the following conversion rights:

(A). Right to Convert. Initially, each share of Series A Preferred Stock shall be convertible into one share of Common Stock (the "Conversion Rate"), which Conversion Rate shall be subject to adjustment as provided for in Section 6, as applicable.

(B). Automatic Conversion. Each share of Series A Preferred Stock automatically shall be converted into shares of Common Stock at the then effective Conversion Rate effective immediately upon the closing of the sale of the Corporation's Common Stock in a firm commitment underwritten public offering registered under the Securities Act of 1933, as amended (the "Securities Act"), (other than a registration relating solely to a transaction under Rule 145 under such Act) at a public offering price (prior to underwriter's discounts and expenses) equal to or exceeding \$5 per share of Common Stock (as adjusted for any stock dividends, combinations or splits with respect to such shares) and the aggregate proceeds to the Corporation (before deduction for underwriters' discount and expenses relating to the issuance, including without limitation fees of the Corporation's counsel) exceeds \$15,000,000.

(C). Each share of Series A Preferred Stock shall be convertible into shares of Common Stock at the then effective Conversion Rate at the option of the holder thereof, at any time after the date of issuance of such share.

(D). Before any holder of Series A Preferred Stock shall be entitled to convert the same into shares of Common Stock he shall surrender the certificate or certificates

therefor, duly endorsed, at the office of the Corporation, and shall give written notice to the Corporation that he elects to convert the same and shall state therein the name or the names in which he wishes the certificate or certificates for shares of Common Stock to be issued. In the event of an automatic conversion, each holder of Series A Preferred Stock shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Corporation. In the event that a holder fails to surrender such certificate or certificates, the Board of Directors, in its sole and absolute discretion, may provide that such a holder with respect to the shares evidenced by such certificates is not entitled to vote or to receive dividends or to exercise any other rights of a shareholder until the holder has so surrendered such certificates.

(6). Adjustments To Conversion Rate.

(A). If the outstanding shares of Common Stock shall be subdivided (by stock split, stock dividend, reclassification or otherwise) into a greater number of shares of Common Stock, concurrently with the effectiveness of such subdivision, the Conversion Rate then in effect shall be proportionately increased. In the event the outstanding shares of Common Stock shall be combined or consolidated, by reclassification or otherwise, into a lesser number of shares of Common Stock, concurrently with the effectiveness of such combination or consolidation, the Conversion Rate then in effect shall be proportionately decreased.

(B). If any outstanding shares of Series A Preferred Stock shall be subdivided (by stock split, reclassification or otherwise) into a greater number of shares of Series A Preferred Stock, concurrently with the effectiveness of such subdivision, the Conversion Rate then in effect shall be proportionately decreased. In the event any outstanding shares of Series A Preferred Stock shall be combined or consolidated, by reclassification or otherwise, into a lesser number of shares of Series A Preferred Stock, concurrently with the effectiveness of such combination or consolidation, the Conversion Rate then in effect shall be increased.

(C). If the shares of Common Stock issuable upon conversion of any shares of Series A Preferred Stock shall be changed into the same or different number of shares of any other class or classes of stock or other securities or property (collectively, "Other Securities"), whether by reorganization, reclassification or otherwise (other than a subdivision or combination of shares provided for in either clause A or B of this Section 6), then the effective Conversion Rate for Series A Preferred Stock, concurrently with the effectiveness of such reorganization or reclassification, shall be proportionately adjusted such that the shares of Series A Preferred Stock shall be convertible into Other Securities equivalent to the number of shares of Common Stock that would have been issuable to the holders of the Series A Preferred Stock if their shares had been converted immediately before such change.

(D). This Corporation, by amendment of its Articles of Incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, will not avoid or seek to avoid the observance or performance of any of the terms to be observed performed hereunder by this Corporation but will at all times in good faith assist in the carrying out of all of the provisions of this Article IV and in the taking of all such action as may be necessary or appropriate in order to protect the conversion rights of the holders of the Series A Preferred Stock against impairment.

(7). Protective Provisions. So long as 25% of the shares of Preferred Stock remain outstanding (once the number of outstanding shares of Preferred Stock drops below 25%, all of the following covenants shall be automatically extinguished), the Corporation shall not, without the vote or written consent by the holders of at least 66 2/3% of the then outstanding shares of Series A Preferred Stock, voting together as a single class:

(A). Amend or repeal any provision of, or add any provision to the Corporation's Articles of Incorporation if that actually would alter, change the rights, preferences, privileges or powers of or restrictions provided on, any Preferred Shares so as to affect adversely the Preferred Shares;

(B). Issue shares of Preferred Stock in excess of 10,000,000;

(C). Authorize or create shares of any class of stock having any preference or priority as to dividends or assets superior to, or on a parity with, any such preferences or priority of the Preferred Shares, or authorize or create shares of any class or any bonds, debentures, notes or other obligations convertible into, or exchangeable for, or having optional rights to purchase, any shares of this Corporation having any such preference or parity;

(D). Reclassify any Common Shares or any other shares of stock hereafter created junior to the Preferred Shares into shares having any preference or priority as to dividends or assets superior to, or on a parity with, that of the Preferred Shares;

(E). Make any provision in the Corporation's Articles of Incorporation or Bylaws fixing special qualifications of persons who may be holders of Preferred Shares or any restrictions upon the right to transfer or hypothecate Preferred Shares except any provisions required by the laws of the State of California or the United States of America;

(F). Affect the merger or consolidation of the Corporation;

(G). Sell, lease, convey, exchange, transfer, or otherwise dispose of, or create or incur any mortgage, lien, charge or encumbrance on or security interest in or pledge of, or sell and leasehack, all or substantially all of the property and assets of this Corporation;

(H). Directly or indirectly retire, redeem, purchase, otherwise acquire, or permit any subsidiary to do any of the foregoing, any shares of capital stock of this Corporation ranking on a parity with or junior to the Preferred Shares; or

(I). Declare, pay, or make, with respect to any shares of capital stock of the Corporation ranking junior to the Preferred Shares to dividends or assets, on liquidation, any dividend or distribution (except in shares of, or warrants or rights to subscribe for or purchase shares of this Corporation which are junior to the Preferred Shares as to dividends or assets) if after giving effect to that dividend there are any accrued dividends unpaid on the Preferred Shares.

ARTICLE V

(1). The liability of directors of the corporation for monetary damages shall be eliminated to the fullest extent permissible under California law.

(2). This corporation is authorized to provide indemnification of agents (as defined in Section 317 of the California Corporations Code) through bylaw provisions, agreements with agents, vote of shareholders or disinterested directors, or otherwise, to the fullest extent permissible under California law.

(3). Any amendment, repeal or modification of any provision of this Article V shall not adversely affect any right or protection of an agent of the corporation existing at the time of such amendment, repeal or modification.

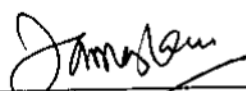
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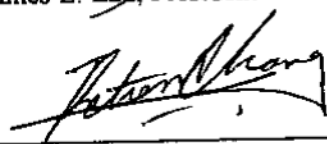
3. The foregoing amendment and restatement of the Articles of Incorporation have been approved by the Board of Directors of this Corporation.

4. The foregoing amendment was approved by the required vote of the shareholders of the Corporation in accordance with Section 902 of the California Corporations Code; the total number of outstanding shares of each class entitled to vote with respect to the amendment was 6,000,000 Common shares; and the number of shares of each class voting in favor of the amendment equaled or exceeded the vote required, such vote was unanimous

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

Dated: August 31, 1999


James L. Lau, President


Peter H.M. Chang, Secretary

2161727
**AMENDED AND RESTATED
 ARTICLES OF INCORPORATION
 OF BROADBAND TELCOM POWER, INC.**

In the office of the Secretary of State
 of the State of California

APR 13 2000

Bill Jones
 BILL JONES, Secretary of State

The undersigned certify that:

1. They are the President and Secretary of Broadband TelCom Power, Inc., a California corporation.
2. The Amended and Restated Articles of Incorporation of this Corporation are further amended and restated to read as follows:

ARTICLE I

The name of this Corporation is Broadband TelCom Power, Inc.

ARTICLE II

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

ARTICLE III

A. **Classes of Stock.** This corporation is authorized to issue two classes of stock to be designated, respectively, "Common Stock" and "Preferred Stock." The total number of shares which the corporation is authorized to issue is thirty million (30,000,000) shares. Twenty million (20,000,000) shares shall be Common Stock and ten million (10,000,000) shares shall be Preferred Stock.

B. **Rights, Preferences and Restrictions of Preferred Stock.** The Preferred Stock authorized by these Amended and Restated Articles of Incorporation may be issued from time to time in one or more series. The rights, preferences, privileges, and restrictions granted to and imposed on the Series A Preferred Stock, which series shall consist of one million five hundred thousand (1,500,000) shares, and the Series B Preferred Stock, which series shall consist of four million (4,000,000) shares, are as set forth below in this Article III(B). The Board of Directors is hereby authorized to fix or alter the rights, preferences, privileges and restrictions granted to or imposed upon additional series of Preferred Stock, and the number of shares constituting any such series and the designation thereof, or any of them. Subject to compliance with applicable protective voting rights as set forth in Section 6 hereof which have been or may be granted to Preferred Stock or series thereof in Certificates of Determination or the Corporations' Articles of Incorporation ("Protective Provisions"), the rights, privileges, preferences and restrictions of any

such additional series may be subordinate to, pari passu with (including, without limitation, inclusion in provisions with respect to liquidation and acquisition preferences, redemption and/or approval of matters by vote or written consent) or senior to any of those of any present or future class or series of Preferred or Common Stock. Subject to compliance with applicable Protective Provisions, the Board of Directors is also authorized to increase or decrease the number of shares of any series (other than Series A and Series B Preferred Stock), prior or subsequent to the issue of that series, but not below the number of shares of such series then outstanding. In case the number of shares of any series shall be so decreased, the shares constituting such decrease shall resume the status which they had prior to the adoption of the resolution originally fixing the number of shares of such series.

1. **Dividend Provisions.** The holders of shares of Series A Preferred Stock and Series B Preferred Stock shall be entitled to receive dividends, out of any assets legally available therefor, prior and in preference to any declaration or payment of any dividend (payable other than in Common Stock or other securities and rights convertible into or entitling the holder thereof to receive, directly or indirectly, additional shares of Common Stock of this corporation) on the Common Stock of this corporation, at the rate of \$0.10 per share (appropriately adjusted for any stock dividends, combinations, splits, recapitalization or the like with respect to such series or as described in subparagraph (f) of Section 4 hereof) of each outstanding share of Series A Preferred Stock per annum and \$0.28 per share (appropriately adjusted for any stock dividends, combinations, splits, recapitalization or the like with respect to such series or as described in subparagraph (f) of Section 4 hereof) of each outstanding share of Series B Preferred Stock per annum, when, as and if declared by the Board of Directors. Such dividends shall be payable only on a pari passu basis among such series and shall not be cumulative. Any partial payment will be made ratably among the holders of Series A Preferred Stock and Series B Preferred Stock in proportion to the payment each such holder would receive if the full amount of such dividends were paid.

Unless full dividends on the Series A Preferred Stock and Series B Preferred Stock on a pari passu basis for the then current dividend period shall have been paid or declared and a sum sufficient for the payment thereof set apart, no dividend whatsoever (other than a dividend payable solely in Common Stock or other securities and rights convertible into or entitling the holder thereof to receive, directly or indirectly, additional shares of Common Stock of this corporation) shall be paid or declared, and no distribution shall be made, on any share of Common Stock.

2. **Liquidation Preference.**

(a) In the event of any liquidation, dissolution or winding up of this corporation, either voluntary or involuntary, the holders of Series A Preferred Stock and Series B Preferred Stock, on a pari passu basis with respect to such series, shall be entitled to receive, prior and in preference to any distribution of any of the assets of this corporation to the holders of Common Stock by reason of their ownership thereof, in the case of the holders of the Series A Preferred Stock, an amount per share equal to \$1.00 for each outstanding share of Series A Preferred Stock (the "Original Series A Issue Price") and in the case of the holders of the Series B Preferred Stock, an amount per share equal to \$2.80 for each outstanding share of Series B

Preferred Stock (the "Original Series B Issue Price"). If upon the occurrence of such event, the assets and funds thus distributed among the holders of the Series A Preferred Stock and Series B Preferred Stock shall be insufficient to permit the payment to such holders of the full aforesaid preferential amounts, then the entire assets and funds of the corporation legally available for distribution shall be distributed ratably among the holders of the Series A Preferred Stock and Series B Preferred Stock in proportion to the amounts each such holder would receive if the corporation had sufficient assets and funds to permit the payment to such holders of the full aforesaid preferential amounts.

(b) Upon the completion of the distribution required in subparagraph (a) of this Section 2, the remaining assets of the corporation available for distribution to shareholders shall be distributed among the holders of Series A Preferred Stock, Series B Preferred Stock and Common Stock pro rata based on the number of shares of Common Stock held by each (assuming conversion of all such Series A Preferred Stock and Series B Preferred Stock); provided, however, that (i) the holders of Series B Preferred Stock shall not be entitled to further participate in any distribution of the remaining assets of the corporation pursuant to this subparagraph (b) of this Section 2 following receipt by such holders of Series B Preferred Stock of aggregate distributions pursuant to this Section 2 equal to \$8.40 (as adjusted for any stock dividend, combination, splits, recapitalization or the like with respect to such series or as described in subparagraph (f) of Section 4 hereof).

(c) (i) For purposes of this Section 2, a liquidation, dissolution or winding up of this corporation shall be deemed to be occasioned by, or to include, (A) a sale, conveyance or other disposition of all or substantially all of the assets of the corporation or (B) the acquisition of the corporation by another entity by means of any transaction or series of related transactions (including, without limitation, any reorganization, merger or consolidation but, excluding any merger effected exclusively for the purpose of changing the domicile of the corporation) in which the corporation's shareholders of record as constituted immediately prior to such acquisition will, immediately after such acquisition (by virtue of securities issued as consideration for the corporation's acquisition or otherwise) fail to hold at least 50% of the voting power of the corporation following such reorganization, merger, consolidation or other transaction.

(ii) In any of such events, if the consideration received by the corporation is other than cash, its value will be deemed its fair market value as determined in good faith by the Board of Directors of this corporation. Any securities shall be valued as follows:

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

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

(ii) If actively traded over-the-counter but not on the Nasdaq National Market, the value shall be deemed to be the average of the closing bid or sale

prices (whichever is applicable) over the thirty-day period ending three (3) days prior to the closing; and

(iii) If there is no active public market, the value shall be the fair market value thereof, as determined and agreed upon by the corporation, the holders of at least a majority of the voting power of all then outstanding shares of Series A Preferred Stock and Series B Preferred Stock voting together as a single class. If no such agreement as to fair market value is reached, then the fair market value thereof shall be determined by an independent appraiser (the costs and expenses of which shall be paid by the corporation) appointed with the approval of the corporation and the holders of at least a majority of the voting power of all then outstanding shares of Series A Preferred Stock and Series B Preferred Stock voting together as a single class.

3. **Redemption.** Neither the corporation nor the holders of Series A Preferred Stock or Series B Preferred Stock shall have the right to call or redeem any shares of the Series A Preferred Stock or Series B Preferred Stock.

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

(a) **Right to Convert.** Each share of Series A Preferred Stock and Series B Preferred Stock shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share at the office of this corporation or any transfer agent for such stock, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing the Original Series A Issue Price or Original Series B Issue Price, respectively, by the Conversion Price applicable to such share, determined as hereinafter provided, in effect on the date that the certificate is surrendered for conversion. The initial Conversion Price per share for shares of Series A Preferred Stock and Series B Preferred Stock shall be the Original Series A Issue Price and Original Series B Issue Price, respectively; provided, however, that the Conversion Price for the Series A Preferred Stock and the Conversion Price for the Series B Preferred Stock shall be subject to adjustment as set forth in subsection 4(d).

(b) **Automatic Conversion.** Each share of Series A Preferred Stock and Series B Preferred Stock shall automatically be converted into shares of Common Stock at the respective Conversion Price at the time in effect for such Series A Preferred Stock and Series B Preferred Stock immediately upon the earlier of (i) except as provided in subsection 4(c), the corporation's sale of its Common Stock in a firm commitment underwritten public offering pursuant to a registration statement under the Securities Act of 1933, as amended (the "Securities Act"), with proceeds net of underwriter's fees to the corporation of not less than \$15,000,000 and a price to the public of at least \$8.40 per share or (ii) the date specified by written consent or agreement of the holders of at least two-thirds of the then outstanding shares of Series A Preferred Stock and Series B Preferred, voting together as a single class.

(c) **Mechanics of Conversion.** Before any holder of Preferred Stock shall be entitled to convert the same into shares of Common Stock, he, she or it shall surrender the certificate or certificates therefor, duly endorsed, or an instrument certifying that such certificate

or certificates have been lost or destroyed, at the office of this corporation or of any transfer agent for the Preferred Stock, and shall give written notice to this corporation at its principal corporate office, of the election to convert the same and shall state therein the name or names in which the certificate or certificates for shares of Common Stock are to be issued. This corporation shall, as soon as practicable thereafter, issue and deliver at such office to such holder of Preferred Stock, or to the nominee or nominees of such holder, a certificate or certificates for the number of shares of Common Stock to which such holder shall be entitled as aforesaid. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of Preferred Stock to be converted, and the person or persons entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock as of such date. If the conversion is in connection with an underwritten offering of securities registered pursuant to the Securities Act, the conversion may, at the option of any holder tendering Preferred Stock for conversion, be conditioned upon the closing with the underwriters of the sale of securities pursuant to such offering, in which event the person(s) entitled to receive the Common Stock upon such conversion of the Preferred Stock shall not be deemed to have converted such Preferred Stock until immediately prior to the closing of such sale of securities.

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

(i) (A) (1) If the corporation shall issue, after the date upon which any shares of Series B Preferred Stock were first issued (the "Series B Purchase Date"), any Additional Stock (as defined below) without consideration or for a consideration per share less than the Conversion Price for the Series B Preferred Stock in effect immediately prior to the issuance of such Additional Stock, the Conversion Price for the Series B Preferred Stock in effect immediately prior to each such issuance shall forthwith (except as otherwise provided in this clause (i)) be adjusted to a price equal to the quotient obtained by dividing the total computed under clause (x) below by the total computed under clause (y) below as follows:

(x) an amount equal to the sum of

(i) the aggregate purchase price of the shares of the Series B Preferred Stock sold pursuant to the agreement pursuant to which shares of Series B Preferred Stock are first issued (the "Series B Stock Purchase Agreement"), plus

(ii) the aggregate consideration, if any, received by the corporation for all Additional Stock issued on or after the Series B Purchase Date;

(y) an amount equal to the sum of

(iv) the aggregate purchase price of the shares of Series B Preferred Stock sold pursuant to the Series B Stock Purchase Agreement

divided by the Conversion Price for the Series B Preferred Stock in effect at the Series B Purchase Date, plus

(v) the number of shares of Additional Stock issued since the Series B Purchase Date.

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

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

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

(D) In the case of the issuance (whether before, on or after the Series B Purchase Date, as applicable) of options to purchase or rights to subscribe for or otherwise acquire Common Stock, securities by their terms convertible into or exchangeable for Common Stock or options to purchase or rights to subscribe for such convertible or exchangeable securities, the following provisions shall apply for all purposes of this subsection 4(d)(i) and subsection 4(d)(ii):

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

(2) The aggregate maximum number of shares of Common Stock deliverable upon conversion of or in exchange assuming satisfaction of any

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

(3) In the event of any change in the number of shares of Common Stock deliverable or in the consideration payable to this corporation upon exercise of such options or rights or upon conversion of or in exchange for such convertible or exchangeable securities, including, but not limited to, a change resulting from the antidilution provisions thereof, the Conversion Price of the Series B Preferred Stock, to the extent in any way affected by or computed using such options, rights or securities, shall be recomputed to reflect such change, but no further adjustment shall be made for the actual issuance of Common Stock or any payment of such consideration upon the exercise of any such options or rights or the conversion or exchange of such securities.

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

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

(ii) "Additional Stock" shall mean any shares of Common Stock issued (or deemed to have been issued pursuant to subsection 4(d)(i)(E)) by this corporation after the Series B Purchase Date, as applicable, other than shares of Common Stock issued or issuable:

(A) upon conversion of shares of Preferred Stock;

(B) up to 1,500,000 shares issued or issuable to officers, directors, or employees of, or consultants to, the Corporation pursuant to a stock grant, option plan or purchase plan or other arrangement approved by the Board of Directors;

(C) as a dividend or distribution on the Preferred Stock and Common Stock;

(D) in connection with an acquisition approved by the Board of Directors;

(E) in connection with joint development agreements, distribution agreements or corporate partnerships approved by the Board of Directors;

(F) to financial institutions and lenders in connection with commercial debt or lease financings approved by the Board of Directors;

(G) with the approval of a majority of the holders of the Series A Preferred Stock or the approval of a majority of the holders of the Series B Preferred Stock, respectively, if the consideration per share for such shares of Common Stock is less than the Series A Conversion Price or Series B Conversion Price, respectively, then in effect;

(H) in connection with the Corporation's initial public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended; or

(I) by way of dividend or other distribution on shares of Common Stock excluded from the definition of Additional Shares of Common Stock by the foregoing clauses (A) through (H) or this clause (I).

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

(iv) If the number of shares of Common Stock outstanding at any time after the Series B Purchase Date, as applicable, is decreased by a combination, consolidation, by reclassification or otherwise of the outstanding shares of Common Stock, then, following the

record date of such combination, the Conversion Prices for the Series A Preferred Stock or Series B Preferred Stock shall be appropriately increased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be decreased in proportion to such decrease in outstanding shares.

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

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

(g) **No Impairment.** This corporation will not, by amendment of its Articles of Incorporation or through any reorganization, recapitalization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by this corporation, but will at all times in good faith assist in the carrying out of all the provisions of this Section 4 and in the taking of all such action as may be necessary or appropriate in order to protect the Conversion Rights of the holders of the Series A Preferred Stock or Series B Preferred Stock against impairment.

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

(i) No fractional shares shall be issued upon conversion of any share or shares of the Series A Preferred Stock or Series B Preferred Stock, and the number of shares of Common Stock to be issued shall be rounded to the nearest whole share. Whether or not fractional shares are issuable upon such conversion shall be determined on the basis of the total number of shares of Series A Preferred Stock or Series B Preferred Stock the holder is at the time

converting into Common Stock and the number of shares of Common Stock issuable upon such aggregate conversion.

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

(i) **Reservation of Stock Issuable Upon Conversion.** This corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of the shares of the Series A Preferred Stock and Series B Preferred Stock, such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of the Series A Preferred Stock and Series B 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 Series A Preferred Stock and Series B Preferred Stock, in addition to such other remedies as shall be available to the holder of such Preferred Stock, this corporation will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of 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 shareholder approval of any necessary amendment to these Articles of Incorporation.

5. Voting Rights.

(a) **General.** The holder of each share of Series A Preferred Stock or Series B Preferred Stock shall have the right to one vote for each share of Common Stock into which such Series A Preferred Stock or Series B Preferred Stock could then be converted, and with respect to such vote, such holder shall have full voting rights and powers equal to the voting rights and powers of the holders of Common Stock, and shall be entitled, notwithstanding any provision hereof, to notice of any shareholders' meeting in accordance with the by-laws of this corporation, and shall be entitled to vote, together with holders of Common Stock, with respect to any question upon which holders of Common Stock have the right to vote. Fractional votes shall not, however, be permitted and any fractional voting rights available on an as-converted basis (after aggregating all shares into which shares of Series A Preferred Stock or Series B Preferred Stock held by each holder could be converted) shall be rounded to the nearest whole number (with one-half being rounded upward). Except as otherwise provided by law, agreement or these Articles of Incorporation, the holders of Series A Preferred Stock or Series B Preferred Stock shall vote with the holders of the outstanding shares of Common Stock, and not as a separate class or series.

(b) **Election of Directors.** In the event there are any shares of Series A Preferred Stock outstanding, the holders of Series A Preferred Stock, voting as a separate class, shall be entitled to elect one (1) director to the Board of Directors of the corporation. In the event there are any shares of Series B Preferred Stock outstanding, the holders of Series B Preferred Stock, voting as a separate class, shall be entitled to elect one (1) director to the Board of Directors of the corporation. Any remaining directors to the Board of Directors of the corporation shall be elected only upon the vote or written consent of the holders of the outstanding shares of Common Stock, Series A Preferred Stock and Series B Preferred Stock voting together as a single class on an as-converted basis.

6. **Protective Provisions.** So long as 25% of the shares of Series A Preferred Stock and 25% of the shares of Series B Preferred Stock are outstanding, this corporation shall not without first obtaining the approval (by vote or written consent, as provided by law) of both (i) the holders of at least a 66 2/3% of the then outstanding shares of Series A Preferred Stock, if any, and (ii) the holders of at least a majority of the then outstanding shares of Series B Preferred Stock, if any, each voting separately and not together as a single class:

(i) merge into or consolidate with any other corporation (other than a wholly-owned subsidiary corporation) or effect any transaction or series of related transactions in which more than fifty percent (50%) of the voting power of the corporation is disposed of;

(ii) amend or repeal any provision to the Corporation's Articles of Incorporation if that would change the rights, preferences, privileges or powers of or restrictions provided on, any Preferred Shares so as to affect adversely the Preferred Shares;

(iii) issue shares of Preferred Stock in excess of 10,000,000;

(iv) authorize or create shares of any class of stock having any preference or parity as Preferred Shares, or authorize or create shares of any class or any bonds, debentures, notes or other obligations convertible into, or exchangeable for, or having optional rights to purchase, any shares of this Corporation having any such preference or parity;

(v) reclassify any Common Shares or any other shares of stock hereafter created junior to the Preferred Shares into shares having any preference or priority as to dividends or assets superior to, or on a parity with, that of the Preferred Shares;

(vi) make any provisions in the Corporation's Articles of Incorporation or Bylaws fixing special qualifications of person who may be holders of Preferred Shares or any restrictions upon the right to transfer or hypothecate Preferred Shares except any provisions required by the laws of the State of California or the United States of America;

(vii) sell, lease, convey, exchange, transfer, or otherwise dispose of, or create or incur any mortgage, lien, charge or encumbrance on or security interest in or pledged of, or sell and leaseback, all or substantially all of the property and assets of this Corporation (other than in the ordinary course of business); or

(viii) directly or indirectly retire, redeem, purchase, otherwise acquire, or permit any subsidiary to do so any of the foregoing, any shares of capital stock of this Corporation ranking on a parity with or junior to the Preferred Shares.

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

C. **Common Stock.**

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

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

3. **Redemption.** The Common Stock is not redeemable.

4. **Voting Rights.** The holder of each share of Common Stock shall have the right to one vote, and shall be entitled to notice of any shareholders' meeting in accordance with the bylaws of this corporation, and shall be entitled to vote upon such matters and in such manner as may be provided by law.

ARTICLE IV

(a) The liability of the directors of the Corporation for monetary damages shall be eliminated to the fullest extent permissible under California law.

(b) The Corporation is authorized to provide indemnification of agents (as defined in Section 317 of the California Corporations Code) through bylaw provisions, agreements with the agents, vote of shareholders or disinterested directors, or otherwise, in excess of the indemnification otherwise permitted by Section 317 of the California Corporations Code, subject only to the limits set forth in Section 204 of the California Corporations Code with respect to actions for breach of duty to the Corporation or its shareholders. The Corporation is further authorized to provide insurance for agents as set forth in Section 317 of the California Corporations Code, provided that, in cases where the Corporation owns all or a portion of the shares of the company issuing the insurance policy, the company and/or the policy must meet one of the two sets of conditions set forth in Section 317, as amended.

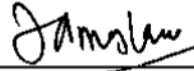
(c) Any repeal or modification of the foregoing provisions of this Article IV by the shareholders of this Corporation shall not adversely affect any right or protection of an agent of this Corporation existing at the time of such repeal or modification.

3. The foregoing Amended and Restated Articles of Incorporation have been duly approved by the Board of Directors.

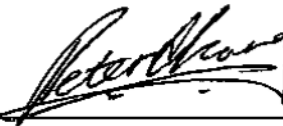
4. The foregoing Amended and Restated Articles of Incorporation have been duly approved by the required vote of shareholders in accordance with Sections 902 and 903 of the Corporations Code. The total number of outstanding shares of the Corporation is 6,100,000 shares of Common Stock, 1,500,000 shares of Series A Preferred Stock and no shares of Series B Preferred Stock. The number of shares voting in favor of the amendment equaled or exceeded the vote required. The percentage vote required was more than 50% of the outstanding shares of Common Stock voting as a separate class, and at least 66 2/3% of the Series A Preferred Stock voting as a separate class.

The undersigned declare under penalty of perjury that the matters set forth in the foregoing certificate are true of their own knowledge.

IN WITNESS WHEREOF, the undersigned have executed this certificate in Milpitas, California, this 12th day of APRIL 2000.



James L. Lau, President



Peter H.M. Chang, Secretary

2161727
**AMENDED AND RESTATED
 ARTICLES OF INCORPORATION
 OF BROADBAND TELCOM POWER, INC.**

FILED
 In the Office of the Secretary of State
 of the State of California

OCT 05 2000

Bill Jones
BILL JONES, Secretary of State

The undersigned certify that:

1. They are the President and Secretary of Broadband TelCom Power, Inc., a California corporation.
2. The Amended and Restated Articles of Incorporation of this Corporation are further amended and restated to read as follows:

ARTICLE I

The name of this Corporation is Broadband TelCom Power, Inc.

ARTICLE II

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

ARTICLE III

A. Classes of Stock. This corporation is authorized to issue two classes of stock to be designated, respectively, "Common Stock" and "Preferred Stock." The total number of shares which the corporation is authorized to issue is thirty million (30,000,000) shares. Twenty million (20,000,000) shares shall be Common Stock and ten million (10,000,000) shares shall be Preferred Stock.

B. Rights, Preferences and Restrictions of Preferred Stock. The Preferred Stock authorized by these Amended and Restated Articles of Incorporation may be issued from time to time in one or more series. The rights, preferences, privileges, and restrictions granted to and imposed on the Series A Preferred Stock, which series shall consist of one million five hundred thousand (1,500,000) shares, and the Series B Preferred Stock, which series shall consist of four million (4,000,000) shares, are as set forth below in this Article III(B). The Board of Directors is hereby authorized to fix or alter the rights, preferences, privileges and restrictions granted to or imposed upon additional series of Preferred Stock, and the number of shares constituting any such series and the designation thereof, or any of them. Subject to compliance with applicable protective voting rights as set forth in Section 6 hereof which have been or may be granted to Preferred Stock or series thereof in Certificates of Determination or the Corporations' Articles of Incorporation ("Protective Provisions"), the rights, privileges, preferences and restrictions of any

such additional series may be subordinate to, pari passu with (including, without limitation, inclusion in provisions with respect to liquidation and acquisition preferences, redemption and/or approval of matters by vote or written consent) or senior to any of those of any present or future class or series of Preferred or Common Stock. Subject to compliance with applicable Protective Provisions, the Board of Directors is also authorized to increase or decrease the number of shares of any series (other than Series A and Series B Preferred Stock), prior or subsequent to the issue of that series, but not below the number of shares of such series then outstanding. In case the number of shares of any series shall be so decreased, the shares constituting such decrease shall resume the status which they had prior to the adoption of the resolution originally fixing the number of shares of such series.

1. **Dividend Provisions.** The holders of shares of Series A Preferred Stock and Series B Preferred Stock shall be entitled to receive dividends, out of any assets legally available therefor, prior and in preference to any declaration or payment of any dividend (payable other than in Common Stock or other securities and rights convertible into or entitling the holder thereof to receive, directly or indirectly, additional shares of Common Stock of this corporation) on the Common Stock of this corporation, at the rate of \$0.10 per share (appropriately adjusted for any stock dividends, combinations, splits, recapitalization or the like with respect to such series or as described in subparagraph (f) of Section 4 hereof) of each outstanding share of Series A Preferred Stock per annum and \$0.28 per share (appropriately adjusted for any stock dividends, combinations, splits, recapitalization or the like with respect to such series or as described in subparagraph (f) of Section 4 hereof) of each outstanding share of Series B Preferred Stock per annum, when, as and if declared by the Board of Directors. Such dividends shall be payable only on a pari passu basis among such series and shall not be cumulative. Any partial payment will be made ratably among the holders of Series A Preferred Stock and Series B Preferred Stock in proportion to the payment each such holder would receive if the full amount of such dividends were paid.

Unless full dividends on the Series A Preferred Stock and Series B Preferred Stock on a pari passu basis for the then current dividend period shall have been paid or declared and a sum sufficient for the payment thereof set apart, no dividend whatsoever (other than a dividend payable solely in Common Stock or other securities and rights convertible into or entitling the holder thereof to receive, directly or indirectly, additional shares of Common Stock of this corporation) shall be paid or declared, and no distribution shall be made, on any share of Common Stock.

2. **Liquidation Preference.**

(a) In the event of any liquidation, dissolution or winding up of this corporation, either voluntary or involuntary, the holders of Series A Preferred Stock and Series B Preferred Stock, on a pari passu basis with respect to such series, shall be entitled to receive, prior and in preference to any distribution of any of the assets of this corporation to the holders of Common Stock by reason of their ownership thereof, in the case of the holders of the Series A Preferred Stock, an amount per share equal to \$1.00 for each outstanding share of Series A Preferred Stock (the "Original Series A Issue Price") and in the case of the holders of the Series B Preferred Stock, an amount per share equal to \$2.80 for each outstanding share of Series B

Preferred Stock (the "Original Series B Issue Price"). If upon the occurrence of such event, the assets and funds thus distributed among the holders of the Series A Preferred Stock and Series B Preferred Stock shall be insufficient to permit the payment to such holders of the full aforesaid preferential amounts, then the entire assets and funds of the corporation legally available for distribution shall be distributed ratably among the holders of the Series A Preferred Stock and Series B Preferred Stock in proportion to the amounts each such holder would receive if the corporation had sufficient assets and funds to permit the payment to such holders of the full aforesaid preferential amounts.

(b) Upon the completion of the distribution required in subparagraph (a) of this Section 2, the remaining assets of the corporation available for distribution to shareholders shall be distributed among the holders of Series A Preferred Stock, Series B Preferred Stock and Common Stock pro rata based on the number of shares of Common Stock held by each (assuming conversion of all such Series A Preferred Stock and Series B Preferred Stock); provided, however, that (i) the holders of Series B Preferred Stock shall not be entitled to further participate in any distribution of the remaining assets of the corporation pursuant to this subparagraph (b) of this Section 2 following receipt by such holders of Series B Preferred Stock of aggregate distributions pursuant to this Section 2 equal to \$8.40 (as adjusted for any stock dividend, combination, splits, recapitalization or the like with respect to such series or as described in subparagraph (f) of Section 4 hereof).

(c) (i) For purposes of this Section 2, a liquidation, dissolution or winding up of this corporation shall be deemed to be occasioned by, or to include, (A) a sale, conveyance or other disposition of all or substantially all of the assets of the corporation or (B) the acquisition of the corporation by another entity by means of any transaction or series of related transactions (including, without limitation, any reorganization, merger or consolidation but, excluding any merger effected exclusively for the purpose of changing the domicile of the corporation) in which the corporation's shareholders of record as constituted immediately prior to such acquisition will, immediately after such acquisition (by virtue of securities issued as consideration for the corporation's acquisition or otherwise) fail to hold at least 50% of the voting power of the corporation following such reorganization, merger, consolidation or other transaction.

(ii) In any of such events, if the consideration received by the corporation is other than cash, its value will be deemed its fair market value as determined in good faith by the Board of Directors of this corporation. Any securities shall be valued as follows:

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

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

(ii) If actively traded over-the-counter but not on the Nasdaq National Market, the value shall be deemed to be the average of the closing bid or sale prices (whichever is applicable) over the thirty-day period ending three (3) days prior to the closing; and

(iii) If there is no active public market, the value shall be the fair market value thereof, as determined and agreed upon by the corporation, the holders of at least a majority of the voting power of all then outstanding shares of Series A Preferred Stock and Series B Preferred Stock voting together as a single class. If no such agreement as to fair market value is reached, then the fair market value thereof shall be determined by an independent appraiser (the costs and expenses of which shall be paid by the corporation) appointed with the approval of the corporation and the holders of at least a majority of the voting power of all then outstanding shares of Series A Preferred Stock and Series B Preferred Stock voting together as a single class.

3. **Redemption.** Neither the corporation nor the holders of Series A Preferred Stock or Series B Preferred Stock shall have the right to call or redeem any shares of the Series A Preferred Stock or Series B Preferred Stock.

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

(a) **Right to Convert.** Each share of Series A Preferred Stock and Series B Preferred Stock shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share at the office of this corporation or any transfer agent for such stock, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing the Original Series A Issue Price or Original Series B Issue Price, respectively, by the Conversion Price applicable to such share, determined as hereinafter provided, in effect on the date that the certificate is surrendered for conversion. The initial Conversion Price per share for shares of Series A Preferred Stock and Series B Preferred Stock shall be the Original Series A Issue Price and Original Series B Issue Price, respectively; provided, however, that the Conversion Price for the Series A Preferred Stock and the Conversion Price for the Series B Preferred Stock shall be subject to adjustment as set forth in subsection 4(d).

(b) **Automatic Conversion.** Each share of Series A Preferred Stock and Series B Preferred Stock shall automatically be converted into shares of Common Stock at the respective Conversion Price at the time in effect for such Series A Preferred Stock and Series B Preferred Stock immediately upon the earlier of (i) except as provided in subsection 4(c), the corporation's sale of its Common Stock in a firm commitment underwritten public offering pursuant to a registration statement under the Securities Act of 1933, as amended (the "Securities Act"), with proceeds net of underwriter's fees to the corporation of not less than \$15,000,000 and a price to the public of at least \$8.40 per share or (ii) the date specified by written consent or agreement of the holders of at least two-thirds of the then outstanding shares of Series A Preferred Stock and Series B Preferred, voting together as a single class.

(c) **Mechanics of Conversion.** Before any holder of Preferred Stock shall be entitled to convert the same into shares of Common Stock, he, she or it shall surrender the certificate or certificates therefor, duly endorsed, or an instrument certifying that such certificate or certificates have been lost or destroyed, at the office of this corporation or of any transfer agent for the Preferred Stock, and shall give written notice to this corporation at its principal corporate office, of the election to convert the same and shall state therein the name or names in which the certificate or certificates for shares of Common Stock are to be issued. This corporation shall, as soon as practicable thereafter, issue and deliver at such office to such holder of Preferred Stock, or to the nominee or nominees of such holder, a certificate or certificates for the number of shares of Common Stock to which such holder shall be entitled as aforesaid. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of Preferred Stock to be converted, and the person or persons entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock as of such date. If the conversion is in connection with an underwritten offering of securities registered pursuant to the Securities Act, the conversion may, at the option of any holder tendering Preferred Stock for conversion, be conditioned upon the closing with the underwriters of the sale of securities pursuant to such offering, in which event the person(s) entitled to receive the Common Stock upon such conversion of the Preferred Stock shall not be deemed to have converted such Preferred Stock until immediately prior to the closing of such sale of securities.

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

(i) (A) (1) If the corporation shall issue, after the date upon which any shares of Series B Preferred Stock were first issued (the "Series B Purchase Date"), any Additional Stock (as defined below) without consideration or for a consideration per share less than the Conversion Price for the Series B Preferred Stock in effect immediately prior to the issuance of such Additional Stock, the Conversion Price for the Series B Preferred Stock in effect immediately prior to each such issuance shall forthwith (except as otherwise provided in this clause (i)) be adjusted to a price equal to the quotient obtained by dividing the total computed under clause (x) below by the total computed under clause (y) below as follows:

(x) an amount equal to the sum of

(i) the aggregate purchase price of the shares of the Series B Preferred Stock sold pursuant to the agreement pursuant to which shares of Series B Preferred Stock are first issued (the "Series B Stock Purchase Agreement"), plus

(ii) the aggregate consideration, if any, received by the corporation for all Additional Stock issued on or after the Series B Purchase Date;

(y) an amount equal to the sum of

(iv) the aggregate purchase price of the shares of Series B Preferred Stock sold pursuant to the Series B Stock Purchase Agreement divided by the Conversion Price for the Series B Preferred Stock in effect at the Series B Purchase Date, plus

(v) the number of shares of Additional Stock issued since the Series B Purchase Date.

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

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

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

(D) In the case of the issuance (whether before, on or after the Series B Purchase Date, as applicable) of options to purchase or rights to subscribe for or otherwise acquire Common Stock, securities by their terms convertible into or exchangeable for Common Stock or options to purchase or rights to subscribe for such convertible or exchangeable securities, the following provisions shall apply for all purposes of this subsection 4(d)(i) and subsection 4(d)(ii):

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

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

(3) In the event of any change in the number of shares of Common Stock deliverable or in the consideration payable to this corporation upon exercise of such options or rights or upon conversion of or in exchange for such convertible or exchangeable securities, including, but not limited to, a change resulting from the antidilution provisions thereof, the Conversion Price of the Series B Preferred Stock, to the extent in any way affected by or computed using such options, rights or securities, shall be recomputed to reflect such change, but no further adjustment shall be made for the actual issuance of Common Stock or any payment of such consideration upon the exercise of any such options or rights or the conversion or exchange of such securities.

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

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

(ii) "Additional Stock" shall mean any shares of Common Stock issued (or deemed to have been issued pursuant to subsection 4(d)(i)(E)) by this corporation after the Series B Purchase Date, as applicable, other than shares of Common Stock issued or issuable:

(A) upon conversion of shares of Preferred Stock;

(B) up to 2,150,000 shares issued or issuable to officers, directors, or employees of, or consultants to, the Corporation pursuant to a stock grant, option plan or purchase plan or other arrangement approved by the Board of Directors;

(C) as a dividend or distribution on the Preferred Stock and Common Stock;

(D) in connection with an acquisition approved by the Board of Directors;

(E) in connection with joint development agreements, distribution agreements or corporate partnerships approved by the Board of Directors;

(F) to financial institutions and lenders in connection with commercial debt or lease financings approved by the Board of Directors;

(G) with the approval of a majority of the holders of the Series A Preferred Stock or the approval of a majority of the holders of the Series B Preferred Stock, respectively, if the consideration per share for such shares of Common Stock is less than the Series A Conversion Price or Series B Conversion Price, respectively, then in effect;

(H) in connection with the Corporation's initial public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended; or

(I) by way of dividend or other distribution on shares of Common Stock excluded from the definition of Additional Shares of Common Stock by the foregoing clauses (A) through (H) or this clause (I).

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

(iv) If the number of shares of Common Stock outstanding at any time after the Series B Purchase Date, as applicable, is decreased by a combination, consolidation, by reclassification or otherwise of the outstanding shares of Common Stock, then, following the record date of such combination, the Conversion Prices for the Series A Preferred Stock or Series B Preferred Stock shall be appropriately increased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be decreased in proportion to such decrease in outstanding shares.

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

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

(g) **No Impairment.** This corporation will not, by amendment of its Articles of Incorporation or through any reorganization, recapitalization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by this corporation, but will at all times in good faith assist in the carrying out of all the provisions of this Section 4 and in the taking of all such action as may be necessary or appropriate in order to protect the Conversion Rights of the holders of the Series A Preferred Stock or Series B Preferred Stock against impairment.

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

(i) No fractional shares shall be issued upon conversion of any share or shares of the Series A Preferred Stock or Series B Preferred Stock, and the number of shares of Common Stock to be issued shall be rounded to the nearest whole share. Whether or not

fractional shares are issuable upon such conversion shall be determined on the basis of the total number of shares of Series A Preferred Stock or Series B Preferred Stock the holder is at the time converting into Common Stock and the number of shares of Common Stock issuable upon such aggregate conversion.

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

(i) **Reservation of Stock Issuable Upon Conversion.** This corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of the shares of the Series A Preferred Stock and Series B Preferred Stock, such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of the Series A Preferred Stock and Series B 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 Series A Preferred Stock and Series B Preferred Stock, in addition to such other remedies as shall be available to the holder of such Preferred Stock, this corporation will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of 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 shareholder approval of any necessary amendment to these Articles of Incorporation.

5. Voting Rights.

(a) **General.** The holder of each share of Series A Preferred Stock or Series B Preferred Stock shall have the right to one vote for each share of Common Stock into which such Series A Preferred Stock or Series B Preferred Stock could then be converted, and with respect to such vote, such holder shall have full voting rights and powers equal to the voting rights and powers of the holders of Common Stock, and shall be entitled, notwithstanding any provision hereof, to notice of any shareholders' meeting in accordance with the by-laws of this corporation, and shall be entitled to vote, together with holders of Common Stock, with respect to any question upon which holders of Common Stock have the right to vote. Fractional votes shall not, however, be permitted and any fractional voting rights available on an as-converted basis (after aggregating all shares into which shares of Series A Preferred Stock or Series B Preferred Stock held by each holder could be converted) shall be rounded to the nearest whole number (with one-half being rounded upward). Except as otherwise provided by law, agreement or these Articles

of Incorporation, the holders of Series A Preferred Stock or Series B Preferred Stock shall vote with the holders of the outstanding shares of Common Stock, and not as a separate class or series.

(b) **Election of Directors.** In the event there are any shares of Series A Preferred Stock outstanding, the holders of Series A Preferred Stock, voting as a separate class, shall be entitled to elect one (1) director to the Board of Directors of the corporation. In the event there are any shares of Series B Preferred Stock outstanding, the holders of Series B Preferred Stock, voting as a separate class, shall be entitled to elect one (1) director to the Board of Directors of the corporation. Any remaining directors to the Board of Directors of the corporation shall be elected only upon the vote or written consent of the holders of the outstanding shares of Common Stock, Series A Preferred Stock and Series B Preferred Stock voting together as a single class on an as-converted basis.

6. **Protective Provisions.** So long as 25% of the shares of Series A Preferred Stock and 25% of the shares of Series B Preferred Stock are outstanding, this corporation shall not without first obtaining the approval (by vote or written consent, as provided by law) of both (i) the holders of at least a 66 2/3% of the then outstanding shares of Series A Preferred Stock, if any, and (ii) the holders of at least a majority of the then outstanding shares of Series B Preferred Stock, if any, each voting separately and not together as a single class:

(i) merge into or consolidate with any other corporation (other than a wholly-owned subsidiary corporation) or effect any transaction or series of related transactions in which more than fifty percent (50%) of the voting power of the corporation is disposed of;

(ii) amend or repeal any provision to the Corporation's Articles of Incorporation if that would change the rights, preferences, privileges or powers of or restrictions provided on, any Preferred Shares so as to affect adversely the Preferred Shares;

(iii) issue shares of Preferred Stock in excess of 10,000,000;

(iv) authorize or create shares of any class of stock having any preference or parity as Preferred Shares, or authorize or create shares of any class or any bonds, debentures, notes or other obligations convertible into, or exchangeable for, or having optional rights to purchase, any shares of this Corporation having any such preference or parity;

(v) reclassify any Common Shares or any other shares of stock hereafter created junior to the Preferred Shares into shares having any preference or priority as to dividends or assets superior to, or on a parity with, that of the Preferred Shares;

(vi) make any provisions in the Corporation's Articles of Incorporation or Bylaws fixing special qualifications of person who may be holders of Preferred Shares or any restrictions upon the right to transfer or hypothecate Preferred Shares except any provisions required by the laws of the State of California or the United States of America;

(vii) sell, lease, convey, exchange, transfer, or otherwise dispose of, or create or incur any mortgage, lien, charge or encumbrance on or security interest in or pledged of,

or sell and leaseback, all or substantially all of the property and assets of this Corporation (other than in the ordinary course of business); or

(viii) directly or indirectly retire, redeem, purchase, otherwise acquire, or permit any subsidiary to do so any of the foregoing, any shares of capital stock of this Corporation ranking on a parity with or junior to the Preferred Shares.

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

C. **Common Stock.**

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

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

3. **Redemption.** The Common Stock is not redeemable.

4. **Voting Rights.** The holder of each share of Common Stock shall have the right to one vote, and shall be entitled to notice of any shareholders' meeting in accordance with the bylaws of this corporation, and shall be entitled to vote upon such matters and in such manner as may be provided by law.

ARTICLE IV

(a) The liability of the directors of the Corporation for monetary damages shall be eliminated to the fullest extent permissible under California law.

(b) The Corporation is authorized to provide indemnification of agents (as defined in Section 317 of the California Corporations Code) through bylaw provisions, agreements with the agents, vote of shareholders or disinterested directors, or otherwise, in excess of the indemnification otherwise permitted by Section 317 of the California Corporations Code, subject only to the limits set forth in Section 204 of the California Corporations Code with respect to actions for breach of duty to the Corporation or its shareholders. The Corporation is further authorized to provide insurance for agents as set forth in Section 317 of the California Corporations Code, provided that, in cases where the Corporation owns all or a portion of the

shares of the company issuing the insurance policy, the company and/or the policy must meet one of the two sets of conditions set forth in Section 317, as amended.

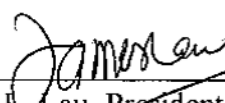
(c) Any repeal or modification of the foregoing provisions of this Article IV by the shareholders of this Corporation shall not adversely affect any right or protection of an agent of this Corporation existing at the time of such repeal or modification.

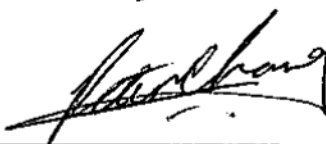
3. The foregoing Amended and Restated Articles of Incorporation have been duly approved by the Board of Directors.

4. The foregoing Amended and Restated Articles of Incorporation have been duly approved by the required vote of shareholders in accordance with Sections 902 and 903 of the Corporations Code. The total number of outstanding shares of the Corporation is 6,587,000 shares of Common Stock, 1,500,000 shares of Series A Preferred Stock and 4,000,000 shares of Series B Preferred Stock. The number of shares voting in favor of the amendment equaled or exceeded the vote required. The percentage vote required was more than 50% of the outstanding shares of Common Stock voting as a separate class, at least 66 2/3% of the Series A Preferred Stock voting as a separate class and at least 50% of the Series B Preferred Stock voting as a separate class.

The undersigned declare under penalty of perjury that the matters set forth in the foregoing certificate are true of their own knowledge.

IN WITNESS WHEREOF, the undersigned have executed this certificate in Milpitas, California, this 3rd day of October, 2000.


James L. Lau, President


Peter H.M. Chang, Corporate Secretary

216 1727
AMENDED AND RESTATED

ARTICLES OF INCORPORATION
OF BROADBAND TELCOM POWER, INC.

FILED
In the Office of the Secretary of State
of the State of California

DEC 20 2000

Bill Jones
BILL JONES, Secretary of State

The undersigned certify that:

1. They are the President and Assistant Secretary of Broadband TelCom Power, Inc., a California corporation.
2. The Amended and Restated Articles of Incorporation of this Corporation are further amended and restated to read as follows:

ARTICLE I

The name of this Corporation is Broadband TelCom Power, Inc. (the "Corporation").

ARTICLE II

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

ARTICLE III

A. Classes of Stock. This corporation is authorized to issue two classes of stock to be designated, respectively, "Common Stock" and "Preferred Stock." The total number of shares which the corporation is authorized to issue is thirty million (30,000,000) shares. Twenty million (20,000,000) shares shall be Common Stock and ten million (10,000,000) shares shall be Preferred Stock.

B. Rights, Preferences and Restrictions of Preferred Stock. The Preferred Stock authorized by these Amended and Restated Articles of Incorporation may be issued from time to time in one or more series. The rights, preferences, privileges, and restrictions granted to and imposed on the Series A Preferred Stock, which series shall consist of One Million Five Hundred Thousand (1,500,000) shares, the Series B Preferred Stock, which series shall consist of Four Million (4,000,000) shares, and the Series C Preferred Stock, which series shall consist of Two Million Five Hundred Thousand (2,500,000) shares, are as set forth below in this Article III(B). The Board of Directors is hereby authorized to fix or alter the rights, preferences, privileges and restrictions granted to or imposed upon additional series of Preferred Stock, and the number of shares constituting any such series and the designation thereof, or any of them. Subject to compliance with applicable protective voting rights as set forth in Section 6 hereof which have been or may be granted to Preferred Stock or series thereof in Certificates of Determination or the Corporations' Articles of Incorporation ("Protective Provisions"), the rights, privileges, preferences and restrictions of any such additional series may be subordinate to, pari passu with

(including, without limitation, inclusion in provisions with respect to liquidation and acquisition preferences, redemption and/or approval of matters by vote or written consent) or senior to any of those of any present or future class or series of Preferred or Common Stock. Subject to compliance with applicable Protective Provisions, the Board of Directors is also authorized to increase or decrease the number of shares of any series (other than Series A, Series B, and Series C Preferred Stock), prior or subsequent to the issue of that series, but not below the number of shares of such series then outstanding. In case the number of shares of any series shall be so decreased, the shares constituting such decrease shall resume the status which they had prior to the adoption of the resolution originally fixing the number of shares of such series.

1. Dividend Provisions. The holders of shares of Series A Preferred Stock, Series B Preferred Stock and Series C Preferred Stock shall be entitled to receive dividends, out of any assets legally available therefor, prior and in preference to any declaration or payment of any dividend (payable other than in Common Stock or other securities and rights convertible into or entitling the holder thereof to receive, directly or indirectly, additional shares of Common Stock of this corporation) on the Common Stock of this corporation, at the rate of \$0.10 per share of each outstanding share of Series A Preferred Stock per annum, \$0.28 per share of each outstanding share of Series B Preferred Stock per annum and \$0.33 per share of each outstanding share of Series C Preferred Stock per annum, in each case as appropriately adjusted for any stock dividends, combinations, splits, recapitalization or the like with respect to such series or as described in subparagraph (f) of Section 4 hereof, when, as and if declared by the Board of Directors. Such dividends shall be payable only on a pari passu basis among such series and shall not be cumulative. Any partial payment will be made ratably among the holders of Series A Preferred Stock, Series B Preferred Stock and Series C Preferred Stock in proportion to the payment each such holder would receive if the full amount of such dividends were paid.

Unless full dividends on each outstanding share of Series A Preferred Stock, Series B Preferred Stock and Series C Preferred Stock on a pari passu basis for the then current dividend period shall have been paid or declared and a sum sufficient for the payment thereof set apart, no dividend whatsoever (other than a dividend payable solely in Common Stock or other securities and rights convertible into or entitling the holder thereof to receive, directly or indirectly, additional shares of Common Stock of this corporation) shall be paid or declared, and no distribution shall be made, on any share of Common Stock.

2. Liquidation Preference.

(a) In the event of any liquidation, dissolution or winding up of this corporation, either voluntary or involuntary, the holders of Series A Preferred Stock, Series B Preferred Stock and Series C Preferred Stock, on a pari passu basis with respect to such series, shall be entitled to receive, prior and in preference to any distribution of any of the assets of this corporation to the holders of Common Stock by reason of their ownership thereof, in the case of the holders of the Series A Preferred Stock, an amount per share equal to \$1.00 (the "Original Series A Issue Price") for each share of Series A Preferred Stock held by such holder in the case of the holders of the Series B Preferred Stock, an amount per share equal to \$2.80 (the "Original Series B Issue Price") for each outstanding share of Series B Preferred Stock and in the case of the holders of Series C Preferred Stock, an amount per share equal to \$3.30 for each share of Series C Preferred Stock held by such holders. If upon the occurrence of such event, the assets

and funds thus distributed among the holders of the Series A Preferred Stock, Series B Preferred Stock and Series C Preferred Stock shall be insufficient to permit the payment to such holders of the full aforesaid preferential amounts, then the entire assets and funds of the corporation legally available for distribution shall be distributed ratably among the holders of the Series A Preferred Stock, Series B Preferred Stock and Series C Preferred Stock in proportion to the amounts each such holder would receive if the corporation had sufficient assets and funds to permit the payment to such holders of the full aforesaid preferential amounts.

(b) Upon the completion of the distribution required in subparagraph (a) of this Section 2, the remaining assets of the corporation available for distribution to shareholders shall be distributed among the holders of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock and Common Stock pro rata based on the number of shares of Common Stock held by each (assuming conversion of all such Series A Preferred Stock, Series B Preferred Stock and Series C Preferred Stock); provided, however, that (i) the holders of Series B Preferred Stock shall not be entitled to further participate in any distribution of the remaining assets of the Corporation pursuant to this subparagraph (b) of this Section 2 following receipt by such holders of Series B Preferred Stock of aggregate distributions pursuant to this Section 2 equal to \$8.40 per share and (ii) the holders of Series C Preferred Stock shall not be entitled to further participate in any distribution of the remaining assets of the Corporation pursuant to this subparagraph (b) of this Section 2 following receipt by such holders of Series C Preferred Stock of aggregate distributions pursuant to this Section 2 equal to \$9.90 per share (in each case as adjusted for any stock dividend, combination, splits, recapitalization or the like with respect to such series or as described in subparagraph (f) of Section 4 hereof).

(c) For purposes of this Section 2, a liquidation, dissolution or winding up of this corporation shall be deemed to be occasioned by, or to include, (A) a sale, conveyance or other disposition of all or substantially all of the assets of the corporation or (B) the acquisition of the corporation by another entity by means of any transaction or series of related transactions (including, without limitation, any reorganization, merger or consolidation but, excluding any merger effected exclusively for the purpose of changing the domicile of the corporation) in which the corporation's shareholders of record as constituted immediately prior to such acquisition will, immediately after such acquisition (by virtue of securities issued as consideration for the corporation's acquisition or otherwise) fail to hold at least 50% of the voting power of the corporation following such reorganization, merger, consolidation or other transaction. In any of such events, if the consideration received by the corporation is other than cash, its value will be deemed its fair market value as determined in good faith by the Board of Directors of this corporation. Any securities shall be valued as follows:

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

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

(2) If actively traded over-the-counter but not on the Nasdaq National Market, the value shall be deemed to be the average of the closing bid or sale prices (whichever is applicable) over the thirty-day period ending three (3) days prior to the closing; and

(3) If there is no active public market, the value shall be the fair market value thereof, as determined and agreed upon by the corporation, the holders of at least a majority of the voting power of all then outstanding shares of Series A Preferred Stock, Series B Preferred Stock and Series C Preferred Stock voting together as a single class. If no such agreement as to fair market value is reached, then the fair market value thereof shall be determined by an independent appraiser (the costs and expenses of which shall be paid by the corporation) appointed with the approval of the corporation and the holders of at least a majority of the voting power of all then outstanding shares of Series A Preferred Stock, Series B Preferred Stock and Series C Preferred Stock voting together as a single class.

3. **Redemption.** Neither the corporation nor the holders of Series A Preferred Stock, Series B Preferred Stock or Series C Preferred Stock shall have the right to call or redeem any shares of the Series A Preferred Stock, Series B Preferred Stock or Series C Preferred Stock.

4. **Conversion.** The holders of the Series A Preferred Stock, Series B Preferred Stock and Series C Preferred Stock shall have conversion rights as follows (the "Conversion Rights"):

(a) **Right to Convert.** Each share of Series A Preferred Stock, Series B Preferred Stock and Series C Preferred Stock shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share at the office of this corporation or any transfer agent for such stock, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing the Original Series A Issue Price, Original Series B Issue Price or Original Series C Issue Price, respectively, by the Conversion Price applicable to such share, determined as hereinafter provided, in effect on the date that the certificate is surrendered for conversion. The initial Conversion Price per share for shares of Series A Preferred Stock, Series B Preferred Stock and Series C Preferred Stock shall be the Original Series A Issue Price, Original Series B Issue Price and Original Series C Issue Price, respectively; provided, however, that the Conversion Price for the Series A Preferred Stock, the Conversion Price for the Series B Preferred Stock and the Conversion Price for the Series C Preferred Stock shall be subject to adjustment as set forth in subsection 4(d).

(b) **Automatic Conversion.** Each share of Series A Preferred Stock, Series B Preferred Stock and Series C Preferred Stock shall automatically be converted into shares of Common Stock at the respective Conversion Price in effect at the time for such Series A Preferred Stock, Series B Preferred Stock and Series C Preferred Stock immediately upon the earlier of (i) except as provided in subsection 4(c), the corporation's sale of its Common Stock in a firm commitment underwritten public offering pursuant to a registration statement under the Securities Act of 1933, as amended (the "Securities Act"), with proceeds net of underwriter's fees to the corporation of not less than \$15,000,000 and a price to the public of at least \$8.40 per share or (ii) the date specified by written consent or agreement of the holders of at least two-

thirds of the then outstanding shares of Series A Preferred Stock, Series B Preferred Stock and Series C Preferred Stock, voting together as a single class.

(c) **Mechanics of Conversion.** Before any holder of Preferred Stock shall be entitled to convert the same into shares of Common Stock, he, she or it shall surrender the certificate or certificates therefor, duly endorsed, or an instrument certifying that such certificate or certificates have been lost or destroyed, at the office of this Corporation or of any transfer agent for the Preferred Stock, and shall give written notice to this Corporation at its principal corporate office, of the election to convert the same and shall state therein the name or names in which the certificate or certificates for shares of Common Stock are to be issued. This Corporation shall, as soon as practicable thereafter, issue and deliver at such office to such holder of Preferred Stock, or to the nominee or nominees of such holder, a certificate or certificates for the number of shares of Common Stock to which such holder shall be entitled as aforesaid. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of Preferred Stock to be converted, and the person or persons entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock as of such date. If the conversion is in connection with an underwritten offering of securities registered pursuant to the Securities Act, the conversion may, at the option of any holder tendering Preferred Stock for conversion, be conditioned upon the closing with the underwriters of the sale of securities pursuant to such offering, in which event the person(s) entitled to receive the Common Stock upon such conversion of the Preferred Stock shall not be deemed to have converted such Preferred Stock until immediately prior to the closing of such sale of securities.

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

(i) **Dilutive Issuances**

(A) If the corporation shall issue, after the date upon which any shares of Series B Preferred Stock were first issued (the "Series B Purchase Date"), any Additional Stock (as defined below) without consideration or for a consideration per share less than the Conversion Price for the Series B Preferred Stock in effect immediately prior to the issuance of such Additional Stock, the Conversion Price for the Series B Preferred Stock in effect immediately prior to each such issuance shall forthwith (except as otherwise provided in this clause (i)) be adjusted to a price equal to the quotient obtained by dividing the total computed under clause (x) below by the total computed under clause (y) below as follows:

(x) an amount equal to the sum of

(i) the aggregate purchase price of the shares of the Series B Preferred Stock sold pursuant to the agreement pursuant to which shares of Series B Preferred Stock are first issued (the "Series B Stock Purchase Agreement"), plus

(ii) the aggregate consideration, if any, received by the corporation for all Additional Stock issued on or after the Series B Purchase Date;

(y) an amount equal to the sum of

(i) the aggregate purchase price of the shares of Series B Preferred Stock sold pursuant to the Series B Stock Purchase Agreement divided by the Conversion Price for the Series B Preferred Stock in effect at the Series B Purchase Date, plus

(ii) the number of shares of Additional Stock issued since the Series B Purchase Date.

(B) If the corporation shall issue, after the date upon which any shares of Series C Preferred Stock were first issued (the "Series C Purchase Date"), any Additional Stock (as defined below) without consideration or for a consideration per share less than the Conversion Price for the Series C Preferred Stock in effect immediately prior to the issuance of such Additional Stock, the Conversion Price for the Series C Preferred Stock in effect immediately prior to each such issuance shall forthwith (except as otherwise provided in this clause (i)) be adjusted to a price equal to the quotient obtained by dividing the total computed under clause (x) below by the total computed under clause (y) below as follows:

(x) an amount equal to the sum of

(i) the aggregate purchase price of the shares of the Series C Preferred Stock sold pursuant to the agreement pursuant to which shares of Series C Preferred Stock are first issued (the "Series C Stock Purchase Agreement"), plus

(ii) the aggregate consideration, if any, received by the corporation for all Additional Stock issued on or after the Series C Purchase Date;

(y) an amount equal to the sum of

(i) the aggregate purchase price of the shares of Series C Preferred Stock sold pursuant to the Series C Stock Purchase Agreement divided by the Conversion Price for the Series C Preferred Stock in effect at the Series C Purchase Date, plus

(ii) the number of shares of Additional Stock issued since the Series C Purchase Date.

(C) No adjustment of the Conversion Price for the Series A Preferred Stock, Series B Preferred Stock, or Series C Preferred Stock shall be made in an amount less than one cent per share, provided that any adjustments which are not required to be made by reason of this sentence shall be carried forward and shall be either taken into account in

any subsequent adjustment made prior to 3 years from the date of the event giving rise to the adjustment being carried forward, or shall be made at the end of 3 years from the date of the event giving rise to the adjustment being carried forward. Except to the limited extent provided for in subsections (F)(3) and (F)(4), no adjustment of such Conversion Price pursuant to this subsection 4(d)(i) shall have the effect of increasing the Conversion Price above the Conversion Price in effect immediately prior to such adjustment.

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

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

(F) In the case of the issuance (whether before, on or after the Series B Purchase Date or Series C Purchase Date as applicable) of options to purchase or rights to subscribe for or otherwise acquire Common Stock, securities by their terms convertible into or exchangeable for Common Stock or options to purchase or rights to subscribe for such convertible or exchangeable securities, the following provisions shall apply for all purposes of this subsection 4(d)(i) and subsection 4(d)(ii):

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

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

options or rights (the consideration in each case to be determined in the manner provided in subsections 4(d)(i)(D) and (d)(i)(E)).

(3) In the event of any change in the number of shares of Common Stock deliverable or in the consideration payable to this corporation upon exercise of such options or rights or upon conversion of or in exchange for such convertible or exchangeable securities, including, but not limited to, a change resulting from the antidilution provisions thereof, the Conversion Price of the Series B Preferred Stock, to the extent in any way affected by or computed using such options, rights or securities, shall be recomputed to reflect such change, but no further adjustment shall be made for the actual issuance of Common Stock or any payment of such consideration upon the exercise of any such options or rights or the conversion or exchange of such securities.

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

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

(ii) "Additional Stock" shall mean any shares of Common Stock issued (or deemed to have been issued pursuant to subsection 4(d)(i)(F)) by this corporation after the Series B Purchase Date or Series C Purchase Date, as applicable, other than shares of Common Stock issued or issuable:

(A) upon conversion of shares of Preferred Stock;

(B) up to 2,150,000 shares issued or issuable to officers, directors, or employees of, or consultants to, the Corporation pursuant to a stock grant, option plan or purchase plan or other arrangement approved by the Board of Directors;

(C) as a dividend or distribution on the Preferred Stock and Common Stock;

(D) in connection with an acquisition approved by the Board of Directors;

(E) in connection with joint development agreements, distribution agreements or corporate partnerships approved by the Board of Directors;

(F) to financial institutions and lenders in connection with commercial debt or lease financings approved by the Board of Directors;

(G) with the approval of a majority of the holders of any Series of Preferred Stock with respect to which the consideration per share paid for such shares of Common Stock is less than the Conversion Price then in effect for such series;

(H) in connection with a business relationship or transaction if such issuance is approved by the Board of Directors and the primary purpose is not to raise additional funding;

(I) in connection with the Corporation's initial public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended; or

(J) by way of dividend or other distribution on shares of Common Stock excluded from the definition of Additional Stock by the foregoing clauses (A) through (I) or this clause (J).

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

(iv) If the number of shares of Common Stock outstanding at any time after the Series C Purchase Date, as applicable, is decreased by a combination, consolidation, by reclassification or otherwise of the outstanding shares of Common Stock, then, following the record date of such combination, the Conversion Prices for the Series A Preferred Stock, Series B Preferred Stock or Series C Preferred Stock shall be appropriately increased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be decreased in proportion to such decrease in outstanding shares.

(e) **Other Distributions.** In the event this corporation shall declare a distribution payable in securities of other persons, evidences of indebtedness issued by this

corporation or other persons, assets (excluding cash dividends) or options or rights not referred to in subsection 4(d)(iii), then, in each such case for the purpose of this subsection 4(e), the holders of the Series A Preferred Stock, Series B Preferred Stock or Series C Preferred Stock shall be entitled to a proportionate share of any such distribution as though they were the holders of the number of shares of Common Stock of the corporation into which their shares of Series A Preferred Stock, Series B Preferred Stock or Series C Preferred Stock are convertible as of the record date fixed for the determination of the holders of Common Stock of the corporation entitled to receive such distribution.

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

(g) **No Impairment.** This corporation will not, by amendment of its Articles of Incorporation or through any reorganization, recapitalization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by this corporation, but will at all times in good faith assist in the carrying out of all the provisions of this Section 4 and in the taking of all such action as may be necessary or appropriate in order to protect the Conversion Rights of the holders of the Series A Preferred Stock, Series B Preferred Stock or Series C Preferred Stock against impairment.

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

(i) No fractional shares shall be issued upon conversion of any share or shares of the Series A Preferred Stock, Series B Preferred Stock or Series C Preferred Stock, and the number of shares of Common Stock to be issued shall be rounded to the nearest whole share. Whether or not fractional shares are issuable upon such conversion shall be determined on the basis of the total number of shares of Series A Preferred Stock, Series B Preferred Stock or Series C Preferred Stock the holder is at the time converting into Common Stock and the number of shares of Common Stock issuable upon such aggregate conversion.

(ii) Upon the occurrence of each adjustment or readjustment of the Conversion Price of Series A Preferred Stock, Series B Preferred Stock or Series C Preferred Stock pursuant to this Section 4, this corporation, at its expense, shall promptly compute such adjustment or readjustment in accordance with the terms hereof and prepare and furnish to each

holder of such Preferred Stock a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. This corporation shall, upon the written request at any time of any holder of Series A Preferred Stock, Series B Preferred Stock or Series C Preferred Stock, furnish or cause to be furnished to such holder a like certificate setting forth (A) such adjustment and readjustment, (B) the Conversion Price for such series of Preferred Stock at the time in effect, and (C) the number of shares of Common Stock and the amount, if any, of other property which at the time would be received upon the conversion of a share of Series A Preferred Stock, Series B Preferred Stock or Series C Preferred Stock.

(iii) **Reservation of Stock Issuable Upon Conversion.** This corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of the shares of the Series A Preferred Stock, Series B Preferred Stock or Series C Preferred Stock such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of the Series A Preferred Stock, Series B Preferred Stock or Series C 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 Series A Preferred Stock, Series B Preferred Stock or Series C Preferred Stock, in addition to such other remedies as shall be available to the holder of such Preferred Stock, this corporation will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of 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 shareholder approval of any necessary amendment to these Articles of Incorporation.

5. Voting Rights.

(a) **General.** The holder of each share of Series A Preferred Stock, Series B Preferred Stock or Series C Preferred Stock shall have the right to one vote for each share of Common Stock into which such Series A Preferred Stock, Series B Preferred Stock or Series C Preferred Stock could then be converted, and with respect to such vote, such holder shall have full voting rights and powers equal to the voting rights and powers of the holders of Common Stock, and shall be entitled, notwithstanding any provision hereof, to notice of any shareholders' meeting in accordance with the by-laws of this corporation, and shall be entitled to vote, together with holders of Common Stock, with respect to any question upon which holders of Common Stock have the right to vote. Fractional votes shall not, however, be permitted and any fractional voting rights available on an as-converted basis (after aggregating all shares into which shares of Series A Preferred Stock, Series B Preferred Stock or Series C Preferred Stock held by each holder could be converted) shall be rounded to the nearest whole number (with one-half being rounded upward). Except as otherwise provided by law, agreement or these Articles of Incorporation, the holders of Series A Preferred Stock, Series B Preferred Stock or Series C Preferred Stock shall vote with the holders of the outstanding shares of Common Stock, and not as a separate class or series.

(b) **Election of Directors.** In the event there are any shares of Series A Preferred Stock outstanding, the holders of Series A Preferred Stock, voting as a separate class, shall be entitled to elect one (1) director to the Board of Directors of the corporation. In the

event there are any shares of Series B Preferred Stock outstanding, the holders of Series B Preferred Stock, voting as a separate class, shall be entitled to elect one (1) director to the Board of Directors of the corporation. In the event there are any shares of Series C Preferred Stock outstanding, the holders of Series C Preferred Stock, voting as a separate class, shall be entitled to elect one (1) director to the Board of Directors of the corporation. Any remaining directors to the Board of Directors of the corporation shall be elected only upon the vote or written consent of the holders of the outstanding shares of Common Stock, Series A Preferred Stock and Series B Preferred Stock and Series C Preferred Stock, voting together as a single class on an as-converted basis.

6. Protective Provisions. So long as at least 25% of the shares of Series A Preferred Stock, at least 25% of the shares of Series B Preferred Stock or at least 25% of the shares of Series C Preferred Stock are outstanding, this corporation shall not, without first obtaining the approval (by vote or written consent, as provided by law) of both the holders of at least a 66 2/3% of the then outstanding shares of Series A Preferred Stock, the holders of at least a majority of the then outstanding shares of Series B Preferred Stock, or the holders of at least a majority of the then outstanding Series C Preferred Stock, as applicable, each voting separately and not together as a single class (provided, however, that if less than 25% of any series of Preferred Stock shall remain outstanding, the provisions of this Section 6 shall not apply to such series), do any of the following:

(i) merge into or consolidate with any other corporation (other than a wholly-owned subsidiary corporation) or effect any transaction or series of related transactions in which more than fifty percent (50%) of the voting power of the corporation is disposed of;

(ii) amend or repeal any provision to the Corporation's Articles of Incorporation if that would change the rights, preferences, privileges or powers of or restrictions provided on, any Preferred Shares so as to affect adversely the Preferred Shares;

(iii) issue shares of Preferred Stock in excess of 15,000,000 in the aggregate;

(iv) authorize or create shares of any class of stock having any preference or parity as Preferred Shares, or authorize or create shares of any class or any bonds, debentures, notes or other obligations convertible into, or exchangeable for, or having optional rights to purchase, any shares of this Corporation having any such preference or parity;

(v) reclassify any Common Shares or any other shares of stock hereafter created junior to the Preferred Shares into shares having any preference or priority as to dividends or assets superior to, or on a parity with, that of the Preferred Shares;

(vi) make any provisions in the Corporation's Articles of Incorporation or Bylaws fixing special qualifications of person who may be holders of Preferred Shares or any restrictions upon the right to transfer or hypothecate Preferred Shares except any provisions required by the laws of the State of California or the United States of America;

(vii) sell, lease, convey, exchange, transfer, or otherwise dispose of, or create or incur any mortgage, lien, charge or encumbrance on or security interest in or pledged of, or sell and leaseback, all or substantially all of the property and assets of this Corporation (other than in the ordinary course of business); or

(viii) directly or indirectly retire, redeem, purchase, otherwise acquire, or permit any subsidiary to do so any of the foregoing, any shares of capital stock of this Corporation ranking on a parity with or junior to the Preferred Shares.

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

C. Common Stock.

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

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

3. Redemption. The Common Stock is not redeemable.

4. Voting Rights. The holder of each share of Common Stock shall have the right to one vote, and shall be entitled to notice of any shareholders' meeting in accordance with the bylaws of this corporation, and shall be entitled to vote upon such matters and in such manner as may be provided by law.

ARTICLE IV

A. The liability of the directors of the Corporation for monetary damages shall be eliminated to the fullest extent permissible under California law.

B. The Corporation is authorized to provide indemnification of agents (as defined in Section 317 of the California Corporations Code) through bylaw provisions, agreements with the agents, vote of shareholders or disinterested directors, or otherwise, in excess of the indemnification otherwise permitted by Section 317 of the California Corporations Code, subject only to the limits set forth in Section 204 of the California Corporations Code with respect to actions for breach of duty to the Corporation or its shareholders. The Corporation is further authorized to provide insurance for agents as set forth in Section 317 of the California Corporations Code, provided that, in cases where the Corporation owns all or a portion of the shares of the company issuing the insurance policy, the company and/or the policy must meet one of the two sets of conditions set forth in Section 317, as amended.

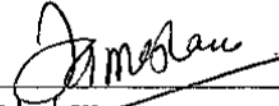
C. Any repeal or modification of the foregoing provisions of this Article IV by the shareholders of this Corporation shall not adversely affect any right or protection of an agent of this Corporation existing at the time of such repeal or modification.

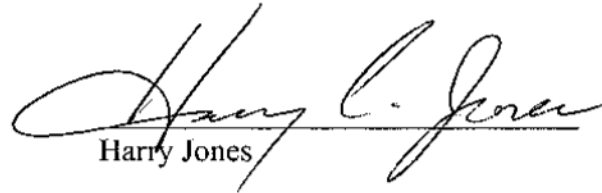
1. The foregoing Amended and Restated Articles of Incorporation have been duly approved by the Board of Directors.

2. The foregoing Amended and Restated Articles of Incorporation have been duly approved by the required vote of shareholders in accordance with Sections 902 and 903 of the Corporations Code. The total number of outstanding shares of the Corporation is 6,216,292 shares of Common Stock, 1,500,000 shares of Series A Preferred Stock 4,000,000 shares of Series B Preferred Stock and no shares of Series C Preferred Stock. The number of shares voting in favor of the amendment equaled or exceeded the vote required. The percentage vote required was more than 50% of the outstanding shares of Common Stock voting as a separate class, at least 66 2/3% of the Series A Preferred Stock voting as a separate class and at least 50% of the Series B Preferred Stock voting as a separate class.

The undersigned declare under penalty of perjury that the matters set forth in the foregoing certificate are true of their own knowledge.

IN WITNESS WHEREOF, the undersigned have executed this certificate in Santa Ana, California, this 19th day of December 2000.


James L. Lau


Harry Jones

2161727

**AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF BROADBAND TELCOM POWER, INC.**

JAN 30 2002


BILL JONES, Secretary of State

The undersigned certify that:

1. They are the President and Assistant Corporate Secretary of Broadband TelCom Power, Inc., a California corporation.
2. The Amended and Restated Articles of Incorporation of this Corporation are further amended and restated to read as follows:

ARTICLE I

The name of this Corporation is Broadband TelCom Power, Inc. (the "Corporation").

ARTICLE II

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

ARTICLE III

A. Classes of Stock. This corporation is authorized to issue two classes of stock to be designated, respectively, "Common Stock" and "Preferred Stock." The total number of shares which the corporation is authorized to issue is thirty million (30,000,000) shares. Twenty million (20,000,000) shares shall be Common Stock and ten million (10,000,000) shares shall be Preferred Stock.

B. Rights, Preferences and Restrictions of Preferred Stock. The Preferred Stock authorized by these Amended and Restated Articles of Incorporation may be issued from time to time in one or more series. The rights, preferences, privileges, and restrictions granted to and imposed on the Series A Preferred Stock, which series shall consist of One Million Five Hundred Thousand (1,500,000) shares, the Series B Preferred Stock, which series shall consist of Four Million (4,000,000) shares, the Series C Preferred Stock, which series shall consist of Two Million Five Hundred Thousand (2,500,000) shares, and the Series D Preferred Stock, which series shall consist of One Million Five Hundred Thousand (1,500,000) shares, are as set forth below in this Article III(B). The Board of Directors is hereby authorized to fix or alter the rights, preferences, privileges and restrictions granted to or imposed upon additional series of Preferred Stock, and the number of shares constituting any such series and the designation thereof, or any of them. Subject to compliance with applicable protective voting rights as set forth in Section 6 hereof which have been or may be granted to Preferred Stock or series thereof in Certificates of

Determination of the Corporations' Articles of Incorporation ("Protective Provisions"), the rights, privileges, preferences and restrictions of any such additional series may be subordinate to, pari passu with (including, without limitation, inclusion in provisions with respect to liquidation and acquisition preferences, redemption and/or approval of matters by vote or written consent) or senior to any of those of any present or future class or series of Preferred or Common Stock. Subject to compliance with applicable Protective Provisions, the Board of Directors is also authorized to increase or decrease the number of shares of any series (other than Series A, Series B, Series C and Series D Preferred Stock), prior or subsequent to the issue of that series, but not below the number of shares of such series then outstanding. In case the number of shares of any series shall be so decreased, the shares constituting such decrease shall resume the status which they had prior to the adoption of the resolution originally fixing the number of shares of such series.

1. Dividend Provisions. The holders of shares of Series A Preferred Stock, Series B Preferred Stock, Series C and Series D Preferred Stock shall be entitled to receive dividends, out of any assets legally available therefor, prior and in preference to any declaration or payment of any dividend (payable other than in Common Stock or other securities and rights convertible into or entitling the holder thereof to receive, directly or indirectly, additional shares of Common Stock of this corporation) on the Common Stock of this corporation, at the rate of \$0.10 per share of each outstanding share of Series A Preferred Stock per annum, \$0.28 per share of each outstanding share of Series B Preferred Stock per annum, \$0.33 per share of each outstanding share of Series C Preferred Stock per annum and \$0.15 per share of each outstanding share of Series D Preferred Stock per annum, in each case as appropriately adjusted for any stock dividends, combinations, splits, recapitalization or the like with respect to such series or as described in subparagraph (f) of Section 4 hereof, when, as and if declared by the Board of Directors. Such dividends shall be payable only on a pari passu basis among such series and shall not be cumulative. Any partial payment will be made ratably among the holders of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock in proportion to the payment each such holder would receive if the full amount of such dividends were paid.

Unless full dividends on each outstanding share of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock on a pari passu basis for the then current dividend period shall have been paid or declared and a sum sufficient for the payment thereof set apart, no dividend whatsoever (other than a dividend payable solely in Common Stock or other securities and rights convertible into or entitling the holder thereof to receive, directly or indirectly, additional shares of Common Stock of this corporation) shall be paid or declared, and no distribution shall be made, on any share of Common Stock.

2. Liquidation Preference.

(a) In the event of any liquidation, dissolution or winding up of this corporation, either voluntary or involuntary, the holders of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock on a pari passu basis with respect to such series, shall be entitled to receive, prior and in preference to any distribution of

any of the assets of this corporation to the holders of Common Stock by reason of their ownership thereof, in the case of the holders of the Series A Preferred Stock, an amount per share equal to \$1.00 (the "Original Series A Issue Price") for each outstanding share of Series A Preferred Stock held by such holders, in the case of the holders of the Series B Preferred Stock, an amount per share equal to \$2.80 (the "Original Series B Issue Price") for each outstanding share of Series B Preferred Stock held by such holders, in the case of the holders of Series C Preferred Stock, an amount per share equal to \$3.30 (the "Original Series C Issue Price") for each outstanding share of Series C Preferred Stock held by such holders and in the case of the holders of Series D Preferred Stock, an amount per share equal to \$1.50 (the "Original Series D Issue Price") for each outstanding share of Series D Preferred Stock held by such holders. If upon the occurrence of such event, the assets and funds thus distributed among the holders of the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock shall be insufficient to permit the payment to such holders of the full aforesaid preferential amounts, then the entire assets and funds of the corporation legally available for distribution shall be distributed ratably among the holders of the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock in proportion to the amounts each such holder would receive if the corporation had sufficient assets and funds to permit the payment to such holders of the full aforesaid preferential amounts.

(b) Upon the completion of the distribution required in subparagraph (a) of this Section 2, the remaining assets of the corporation available for distribution to shareholders shall be distributed among the holders of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock and Common Stock pro rata based on the number of shares of Common Stock held by each (assuming conversion of all such Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock); provided, however, that (i) the holders of Series B Preferred Stock shall not be entitled to further participate in any distribution of the remaining assets of the Corporation pursuant to this subparagraph (b) of this Section 2 following receipt by such holders of Series B Preferred Stock of aggregate distributions pursuant to this Section 2 equal to \$8.40 per share, (ii) the holders of Series C Preferred Stock shall not be entitled to further participate in any distribution of the remaining assets of the Corporation pursuant to this subparagraph (b) of this Section 2 following receipt by such holders of Series C Preferred Stock of aggregate distributions pursuant to this Section 2 equal to \$9.90 per share and (iii) the holders of Series D Preferred Stock shall not be entitled to further participate in any distribution of the remaining assets of the Corporation pursuant to this subparagraph (b) of this Section 2 following receipt by such holders of Series D Preferred Stock of aggregate distributions pursuant to this Section 2 equal to \$4.50 (in each case as adjusted for any stock dividend, combination, splits, recapitalization or the like with respect to such series or as described in subparagraph (f) of Section 4 hereof).

(c) For purposes of this Section 2, a liquidation, dissolution or winding up of this corporation shall be deemed to be occasioned by, or to include, (A) a sale, conveyance or other disposition of all or substantially all of the assets of the corporation or (B) the acquisition of the corporation by another entity by means of any transaction or series of related transactions (including, without limitation, any reorganization, merger or consolidation but, excluding any merger effected exclusively for the purpose of changing the domicile of the corporation) in which the corporation's shareholders of record as constituted immediately prior to such acquisition will,

immediately after such acquisition (by virtue of securities issued as consideration for the corporation's acquisition or otherwise) fail to hold at least 50% of the voting power of the corporation following such reorganization, merger, consolidation or other transaction. In any of such events, if the consideration received by the corporation is other than cash, its value will be deemed its fair market value as determined in good faith by the Board of Directors of this corporation. Any securities shall be valued as follows:

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

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

(2) If actively traded over-the-counter but not on the Nasdaq National Market, the value shall be deemed to be the average of the closing bid or sale prices (whichever is applicable) over the thirty-day period ending three (3) days prior to the closing; and

(3) If there is no active public market, the value shall be the fair market value thereof, as determined and agreed upon by the corporation, the holders of at least a majority of the voting power of all then outstanding shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock voting together as a single class. If no such agreement as to fair market value is reached, then the fair market value thereof shall be determined by an independent appraiser (the costs and expenses of which shall be paid by the corporation) appointed with the approval of the corporation and the holders of at least a majority of the voting power of all then outstanding shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock voting together as a single class.

3. **Redemption.** Neither the corporation nor the holders of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock or Series D Preferred Stock shall have the right to call or redeem any shares of the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock or Series D Preferred Stock.

4. **Conversion.** The holders of the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock shall have conversion rights as follows (the "Conversion Rights"):

(a) **Right to Convert.** Each share of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share at the office of this corporation or any transfer agent for such stock, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing the Original Series A Issue Price, Original Series B Issue Price, Original Series C Issue Price or Original Series D Issue

Price, respectively, by the Conversion Price applicable to such share, determined as hereinafter provided, in effect on the date that the certificate is surrendered for conversion. The initial Conversion Price per share for shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock shall be the Original Series A Issue Price, Original Series B Issue Price, Original Series C Issue Price and Original Series D Issue Price, respectively; provided, however, that the Conversion Price for the Series A Preferred Stock, the Conversion Price for the Series B Preferred Stock, the Conversion Price for the Series C Preferred Stock and the Conversion Price for the Series D Preferred Stock shall be subject to adjustment as set forth in subsection 4(d).

(b) Automatic Conversion. Each share of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock shall automatically be converted into shares of Common Stock at the respective Conversion Price in effect at the time for such Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock immediately upon the earlier of (i) except as provided in subsection 4(c), the corporation's sale of its Common Stock in a firm commitment underwritten public offering pursuant to a registration statement under the Securities Act of 1933, as amended (the "Securities Act"), with proceeds net of underwriter's fees to the corporation of not less than \$15,000,000 and a price to the public of at least \$8.40 per share or (ii) the date specified by written consent or agreement of the holders of at least two-thirds of the then outstanding shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock, voting together as a single class.

(c) Mechanics of Conversion. Before any holder of Preferred Stock shall be entitled to convert the same into shares of Common Stock, he, she or it shall surrender the certificate or certificates therefor, duly endorsed, or an instrument certifying that such certificate or certificates have been lost or destroyed, at the office of this Corporation or of any transfer agent for the Preferred Stock, and shall give written notice to this Corporation at its principal corporate office, of the election to convert the same and shall state therein the name or names in which the certificate or certificates for shares of Common Stock are to be issued. This Corporation shall, as soon as practicable thereafter, issue and deliver at such office to such holder of Preferred Stock, or to the nominee or nominees of such holder, a certificate or certificates for the number of shares of Common Stock to which such holder shall be entitled as aforesaid. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of Preferred Stock to be converted, and the person or persons entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock as of such date. If the conversion is in connection with an underwritten offering of securities registered pursuant to the Securities Act, the conversion may, at the option of any holder tendering Preferred Stock for conversion, be conditioned upon the closing with the underwriters of the sale of securities pursuant to such offering, in which event the person(s) entitled to receive the Common Stock upon such conversion of the Preferred Stock shall not be deemed to have converted such Preferred Stock until immediately prior to the closing of such sale of securities.

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

(i) Dilutive Issuances

(A) If the corporation shall issue, after the date upon which any shares of Series B Preferred Stock were first issued (the "Series B Purchase Date"), any Additional Stock (as defined below) without consideration or for a consideration per share less than the Conversion Price for the Series B Preferred Stock in effect immediately prior to the issuance of such Additional Stock, the Conversion Price for the Series B Preferred Stock in effect immediately prior to each such issuance shall forthwith (except as otherwise provided in this clause (i)) be adjusted to a price equal to the quotient obtained by dividing the total computed under clause (x) below by the total computed under clause (y) below as follows:

(x) an amount equal to the sum of

(i) the aggregate purchase price of the shares of the Series B Preferred Stock sold pursuant to the agreement pursuant to which shares of Series B Preferred Stock are first issued (the "Series B Stock Purchase Agreement"), plus

(ii) the aggregate consideration, if any, received by the corporation for all Additional Stock issued on or after the Series B Purchase Date;

(y) an amount equal to the sum of

(i) the aggregate purchase price of the shares of Series B Preferred Stock sold pursuant to the Series B Stock Purchase Agreement divided by the Conversion Price for the Series B Preferred Stock in effect at the Series B Purchase Date, plus

(ii) the number of shares of Additional Stock issued since the Series B Purchase Date.

(B) If the corporation shall issue, after the date upon which any shares of Series C Preferred Stock were first issued (the "Series C Purchase Date"), any Additional Stock (as defined below) without consideration or for a consideration per share less than the Conversion Price for the Series C Preferred Stock in effect immediately prior to the issuance of such Additional Stock, the Conversion Price for the Series C Preferred Stock in effect immediately prior to each such issuance shall forthwith (except as otherwise provided in this clause (i)) be adjusted to a price equal to the quotient obtained by dividing the total computed under clause (x) below by the total computed under clause (y) below as follows:

- (x) an amount equal to the sum of
 - (i) the aggregate purchase price of the shares of the Series C Preferred Stock sold pursuant to the agreement pursuant to which shares of Series C Preferred Stock are first issued (the "Series C Stock Purchase Agreement"), plus
 - (ii) the aggregate consideration, if any, received by the corporation for all Additional Stock issued on or after the Series C Purchase Date;
- (y) an amount equal to the sum of
 - (i) the aggregate purchase price of the shares of Series C Preferred Stock sold pursuant to the Series C Stock Purchase Agreement divided by the Conversion Price for the Series C Preferred Stock in effect at the Series C Purchase Date, plus
 - (ii) the number of shares of Additional Stock issued since the Series C Purchase Date.

(C) If the corporation shall issue, after the date upon which any shares of Series D Preferred Stock were first issued (the "Series D Purchase Date"), any Additional Stock (as defined below) without consideration or for a consideration per share less than the Conversion Price for the Series D Preferred Stock in effect immediately prior to the issuance of such Additional Stock, the Conversion Price for the Series D Preferred Stock in effect immediately prior to each such issuance shall forthwith (except as otherwise provided in this clause (i)) be adjusted to a price equal to the quotient obtained by dividing the total computed under clause (x) below by the total computed under clause (y) below as follows:

- (x) an amount equal to the sum of
 - (i) the aggregate purchase price of the shares of the Series D Preferred Stock sold pursuant to the agreement pursuant to which shares of Series D Preferred Stock are first issued (the "Series D Stock Purchase Agreement"), plus
 - (ii) the aggregate consideration, if any, received by the corporation for all Additional Stock issued on or after the Series D Purchase Date;
- (y) an amount equal to the sum of
 - (i) the aggregate purchase price of the shares of Series D Preferred Stock sold pursuant to the Series D Stock Purchase Agreement divided by the Conversion Price for the Series D Preferred Stock in effect at the Series D Purchase Date, plus

(ii) the number of shares of Additional Stock issued since the Series D Purchase Date.

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

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

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

(G) In the case of the issuance (whether before, on or after the Series B Purchase Date, Series C Purchase Date or Series D Purchase Date as applicable) of options to purchase or rights to subscribe for or otherwise acquire Common Stock, securities by their terms convertible into or exchangeable for Common Stock or options to purchase or rights to subscribe for such convertible or exchangeable securities, the following provisions shall apply for all purposes of this subsection 4(d)(i) and subsection 4(d)(ii):

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

(2) The aggregate maximum number of shares of Common Stock deliverable upon conversion of or in exchange assuming satisfaction of any conditions to convertibility or exchangeability, including, without limitation, the passage of time, but without taking into account potential antidilution or adjustments for any such convertible or exchangeable securities or upon the exercise of options to purchase or rights to subscribe for such

convertible or exchangeable securities and subsequent conversion or exchange thereof shall be deemed to have been issued at the time such securities were issued or such options or rights were issued and for a consideration equal to the consideration, if any, received by the corporation for any such securities and related options or rights (excluding any cash received on account of accrued interest or accrued dividends), plus the minimum additional consideration, if any, to be received by the corporation (without taking into account potential antidilution adjustments) upon the conversion or exchange of such securities or the exercise of any related options or rights (the consideration in each case to be determined in the manner provided in subsections 4(d)(i)(E) and (d)(i)(F)).

(3) In the event of any change in the number of shares of Common Stock deliverable or in the consideration payable to this corporation upon exercise of such options or rights or upon conversion of or in exchange for such convertible or exchangeable securities, including, but not limited to, a change resulting from the antidilution provisions thereof, the Conversion Price of the Series B Preferred Stock, Series C Preferred Stock or Series D Preferred Stock, to the extent in any way affected by or computed using such options, rights or securities, shall be recomputed to reflect such change, but no further adjustment shall be made for the actual issuance of Common Stock or any payment of such consideration upon the exercise of any such options or rights or the conversion or exchange of such securities.

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

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

(ii) "Additional Stock" shall mean any shares of Common Stock issued (or deemed to have been issued pursuant to subsection 4(d)(i)(G)) by this corporation after the Series B Purchase Date, Series C Purchase Date or Series D Purchase Date, as applicable, other than shares of Common Stock issued or issuable:

(A) upon conversion of shares of Preferred Stock;

(B) up to 2,150,000 shares issued or issuable to officers, directors, or employees of, or consultants to, the Corporation pursuant to a stock grant, option plan or purchase plan or other arrangement approved by the Board of Directors;

(C) as a dividend or distribution on the Preferred Stock and Common Stock;

(D) in connection with an acquisition approved by the Board of Directors;

(E) in connection with joint development agreements, distribution agreements or corporate partnerships approved by the Board of Directors;

(F) to financial institutions and lenders in connection with commercial debt or lease financings approved by the Board of Directors;

(G) with the approval of a majority of the holders of any Series of Preferred Stock with respect to which the consideration per share paid for such shares of Common Stock is less than the Conversion Price then in effect for such series;

(H) in connection with a business relationship or transaction if such issuance is approved by the Board of Directors and the primary purpose is not to raise additional funding;

(I) in connection with the Corporation's initial public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended; or

(J) by way of dividend or other distribution on shares of Common Stock excluded from the definition of Additional Stock by the foregoing clauses (A) through (I) or this clause (J).

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

issuable with respect to Common Stock Equivalents determined from time to time in the manner provided for deemed issuances in subsection 4(d)(i)(G).

(iv) If the number of shares of Common Stock outstanding at any time after the Series D Purchase Date, as applicable, is decreased by a combination, consolidation, by reclassification or otherwise of the outstanding shares of Common Stock, then, following the record date of such combination, the Conversion Prices for the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock or Series D Preferred Stock shall be appropriately increased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be decreased in proportion to such decrease in outstanding shares.

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

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

(g) **No Impairment.** This corporation will not, by amendment of its Articles of Incorporation or through any reorganization, recapitalization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by this corporation, but will at all times in good faith assist in the carrying out of all the provisions of this Section 4 and in the taking of all such action as may be necessary or appropriate in order to protect the Conversion Rights of the holders of the Series A Preferred

Stock, Series B Preferred Stock, Series C Preferred Stock or Series D Preferred Stock against impairment.

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

(i) No fractional shares shall be issued upon conversion of any share or shares of the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock or Series D Preferred Stock; the number of shares of Common Stock to be issued shall be rounded to the nearest whole share and in lieu of any fractional shares to which the holder of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock or Series D Preferred Stock would otherwise be entitled upon conversion, the Corporation shall pay cash equal to such fraction multiplied by the fair market value of one share of Common Stock as determined by the Board of Directors.

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

(iii) **Reservation of Stock Issuable Upon Conversion.** This corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of the shares of the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock or Series D Preferred Stock such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock or Series D 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 Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock or Series D Preferred Stock, in addition to such other remedies as shall be available to the holder of such Preferred Stock, this corporation will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of 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 shareholder approval of any necessary amendment to these Articles of Incorporation.

5. Voting Rights.

(a) **General.** The holder of each share of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock or Series D Preferred Stock shall have the right to one vote for each share of Common Stock into which such Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock or Series D Preferred Stock could then be converted, and with respect to such vote, such holder shall have full voting rights and powers equal to the voting rights and powers of the holders of Common Stock, and shall be entitled, notwithstanding any provision hereof, to notice of any shareholders' meeting in accordance with the by-laws of this corporation, and shall be entitled to vote, together with holders of Common Stock, with respect to any question upon which holders of Common Stock have the right to vote. Fractional votes shall not, however, be permitted and any fractional voting rights available on an as-converted basis (after aggregating all shares into which shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock or Series D Preferred Stock held by each holder could be converted) shall be rounded to the nearest whole number (with one-half being rounded upward). Except as otherwise provided by law, agreement or these Articles of Incorporation, the holders of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock or Series D Preferred Stock shall vote with the holders of the outstanding shares of Common Stock, and not as a separate class or series.

(b) **Election of Directors.** In the event there are any shares of Series A Preferred Stock outstanding, the holders of Series A Preferred Stock, voting as a separate class, shall be entitled to elect one (1) director to the Board of Directors of the corporation. In the event there are any shares of Series B Preferred Stock outstanding, the holders of Series B Preferred Stock, voting as a separate class, shall be entitled to elect one (1) director to the Board of Directors of the corporation. In the event there are any shares of Series C Preferred Stock outstanding, the holders of Series C Preferred Stock, voting as a separate class, shall be entitled to elect one (1) director to the Board of Directors of the corporation. Any remaining directors to the Board of Directors of the corporation shall be elected only upon the vote or written consent of the holders of the outstanding shares of Common Stock, Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock, voting together as a single class on an as-converted basis.

6. **Protective Provisions.** So long as at least 25% of the shares of Series A Preferred Stock, at least 25% of the shares of Series B Preferred Stock, at least 25% of the shares of Series C Preferred Stock or at least 25% of the shares of Series D Preferred Stock are outstanding, this corporation shall not, without first obtaining the approval (by vote or written consent, as provided by law) of both the holders of at least a 66 2/3% of the then outstanding shares of Series A Preferred Stock, the holders of at least a majority of the then outstanding shares of Series B Preferred Stock, the holders of at least a majority of the then outstanding Series C Preferred Stock or the holders of at least a majority of the then outstanding Series D Preferred Stock, as applicable, each voting separately and not together as a single class (provided, however, that if less than 25% of any series of Preferred Stock shall remain outstanding, the provisions of this Section 6 shall not apply to such series), do any of the following:

(i) merge into or consolidate with any other corporation (other than a wholly-owned subsidiary corporation) or effect any transaction or series of related

transactions in which more than fifty percent (50%) of the voting power of the corporation is disposed of;

(ii) amend or repeal any provision to the Corporation's Articles of Incorporation if that would change the rights, preferences, privileges or powers of or restrictions provided on, any Preferred Shares so as to affect adversely the Preferred Shares;

(iii) issue shares of Preferred Stock in excess of 15,000,000 in the aggregate;

(iv) authorize or create shares of any class of stock having any preference or parity as Preferred Shares, or authorize or create shares of any class or any bonds, debentures, notes or other obligations convertible into, or exchangeable for, or having optional rights to purchase, any shares of this Corporation having any such preference or parity;

(v) reclassify any Common Shares or any other shares of stock hereafter created junior to the Preferred Shares into shares having any preference or priority as to dividends or assets superior to, or on a parity with, that of the Preferred Shares;

(vi) make any provisions in the Corporation's Articles of Incorporation or Bylaws fixing special qualifications of person who may be holders of Preferred Shares or any restrictions upon the right to transfer or hypothecate Preferred Shares except any provisions required by the laws of the State of California or the United States of America;

(vii) sell, lease, convey, exchange, transfer, or otherwise dispose of, or create or incur any mortgage, lien, charge or encumbrance on or security interest in or pledged of, or sell and leaseback, all or substantially all of the property and assets of this Corporation (other than in the ordinary course of business); or

(viii) directly or indirectly retire, redeem, purchase, otherwise acquire, or permit any subsidiary to do so any of the foregoing, any shares of capital stock of this Corporation ranking on a parity with or junior to the Preferred Shares.

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

C. Common Stock.

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

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

3. **Redemption.** The Common Stock is not redeemable.

4. **Voting Rights.** The holder of each share of Common Stock shall have the right to one vote, and shall be entitled to notice of any shareholders' meeting in accordance with the bylaws of this corporation, and shall be entitled to vote upon such matters and in such manner as may be provided by law.

ARTICLE IV

A. The liability of the directors of the Corporation for monetary damages shall be eliminated to the fullest extent permissible under California law.

B. The Corporation is authorized to provide indemnification of agents (as defined in Section 317 of the California Corporations Code) through bylaw provisions, agreements with the agents, vote of shareholders or disinterested directors, or otherwise, in excess of the indemnification otherwise permitted by Section 317 of the California Corporations Code, subject only to the limits set forth in Section 204 of the California Corporations Code with respect to actions for breach of duty to the Corporation or its shareholders. The Corporation is further authorized to provide insurance for agents as set forth in Section 317 of the California Corporations Code, provided that, in cases where the Corporation owns all or a portion of the shares of the company issuing the insurance policy, the company and/or the policy must meet one of the two sets of conditions set forth in Section 317, as amended.

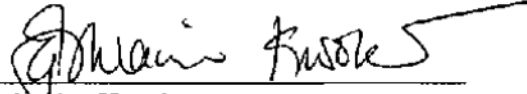
C. Any repeal or modification of the foregoing provisions of this Article IV by the shareholders of this Corporation shall not adversely affect any right or protection of an agent of this Corporation existing at the time of such repeal or modification.

1. The foregoing Amended and Restated Articles of Incorporation have been duly approved by the Board of Directors.

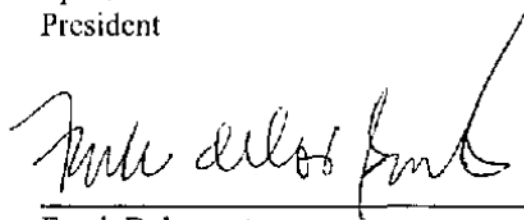
2. The foregoing Amended and Restated Articles of Incorporation have been duly approved by the required vote of shareholders in accordance with Sections 902 and 903 of the Corporations Code. The total number of outstanding shares of the Corporation is 6,296,833 shares of Common Stock, 1,500,000 shares of Series A Preferred Stock 4,000,000 shares of Series B Preferred Stock and 1,229,617 shares of Series C Preferred Stock and no shares of Series D Preferred Stock. The number of shares voting in favor of the amendment equaled or exceeded the vote required. The percentage vote required was more than 50% of the outstanding shares of Common Stock voting as a separate class, at least 66 2/3% of the Series A Preferred Stock voting as a separate class, at least 50% of the Series B Preferred Stock voting as a separate class and at least 50% of the Series C Preferred Stock voting as a separate class.

The undersigned declare under penalty of perjury that the matters set forth in the foregoing certificate are true of their own knowledge.

IN WITNESS WHEREOF, the undersigned have executed this certificate in Santa Ana, California, this 25 day of January 2002.



Ephraim Kwok
President



Frank Delossantos
Assistant Corporate Secretary

2161727

**CERTIFICATE OF AMENDMENT
OF
ARTICLES OF INCORPORATION
OF
BROADBAND TELCOM POWER, INC.**

FILED CC
Secretary of State
State of California

JUL 26 2017

1cc

msb

The undersigned certifies that:

1. He is the President and the Secretary, respectively, of Broadband TelCom Power, Inc., a California corporation (the "**Corporation**").
2. The following provision of the Articles of Incorporation is amended to read as follows:

Article III Section A. is restated as follows:

A. Classes of Stock. This corporation is authorized to issue two classes of stock to be designated, respectively, "Common Stock" and "Preferred Stock". The total number of shares which the corporation is authorized to issue is thirty-five million (35,000,000) shares. Twenty-five million (25,000,000) shares shall be Common Stock and ten million (10,000,000) shall be Preferred Stock.

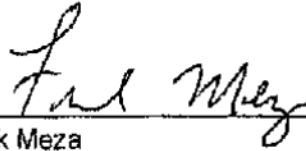
3. The amendment set out in Section 2 has been duly approved by the board of directors and was submitted to the shareholders for approval.
4. The amendment set out in Section 2 has been duly approved by the required vote of shareholders in accordance with Sections 902 and 903 of the California Corporations Code, as follows:

The Corporation has two classes of shares, each of which is entitled to vote on the amendment. The number of outstanding Common Shares of entitled to vote on the amendment is 20,275,000, and the number of outstanding Preferred Shares is zero. The number of shares of Common Shares voting in favor of the amendment equaled or exceeded the vote required, which was a majority.

I further declare under penalty of perjury under the laws of the State of California that the matters set out in this Certificate of Amendment of Articles of Incorporation are true and correct of our own knowledge.

[SIGNATURES APPEAR ON NEXT PAGE]

Signed on this 20th day of July, 2017 at Santa Ana, California.

A handwritten signature in cursive script, appearing to read "Frank Meza", written over a horizontal line.

Frank Meza
President and Secretary

2161727

CERTIFICATE OF AMENDMENT
OF
ARTICLES OF INCORPORATION

FILED
Secretary of State
State of California

MAR 12 2018

The undersigned certifies that:

1. I, Frank Meza, certify that I am the President and Secretary of Broadband Telcom Power, Inc., a California Corporation.

2. Article III, Section A. of the Articles of Incorporation of this corporation is amended to read as follows:

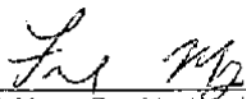
A. Classes of Stock. This corporation is authorized to issue two classes of stock to be designated, respectively, "Common Stock" and "Preferred Stock." The total number of shares which the corporation is authorized to issue is Forty-Five Million (45,000,000) shares. Thirty-Five Million (35,000,000) shares shall be Common Stock and Ten Million (10,000,000) shares shall be Preferred Stock.

3. The foregoing amendment of the Articles of Incorporation has been duly approved by the Board of Directors.

4. The foregoing amendment of the Articles of Incorporation has been duly approved by the required vote of shareholders in accordance with Section 902 of the Corporations Code. The total number of outstanding shares of Common Stock entitled to vote on the amendment is 22,472,916.86 and the number of outstanding shares of Preferred Stock is zero. The number of shares of Common Stock voting in favor of the amendment equaled or exceeded the vote required. The percentage vote required was more than 50%.

I further declare under penalty of perjury under the laws of the State of California that the matters set forth in the foregoing certificate are true and correct of my own knowledge.

DATE: March 12, 2018



Frank Meza, President and Secretary

2161727 SURV

FILED ^{VM}
 Secretary of State
 State of California
 EFFECTIVE DATE
 JUL 01 2018
 CC JUN 29 2018

AGREEMENT OF MERGER

THIS AGREEMENT OF MERGER ("Agreement") is entered into by and between BROADBAND TELCOM POWER, INC., a California corporation (herein "Surviving Corporation"), and BTCP MERGER SUB, INC., a California corporation (herein "Merging Corporation"). At the effective time of the merger (the "Effective Time"), without any further action on the part of either party:

1. The Merging Corporation shall be merged into the Surviving Corporation.
2. Each outstanding share of the Merging Corporation shall be converted to one share of Surviving Corporation.
3. The outstanding shares of the Surviving Corporation shall be cancelled in consideration of the receipt by the pre-Effective Time shareholders of the Surviving Corporation of the purchase price from BTCP Holding, LLC, a Delaware limited liability company and the sole shareholder of Merging Corporation (the "Shareholder"), as further set forth in an Agreement and Plan of Merger dated concurrent herewith by and among the Merging Corporation, Surviving Corporation and Shareholder.
4. The articles of incorporation of the Surviving Corporation are amended and restated as set forth in Exhibit A attached hereto.
5. The Merging Corporation shall from time to time, as and when requested by Surviving Corporation, execute and deliver all such documents and instruments and take all such action necessary or desirable to evidence or carry out this merger.
6. The Effective Time will be 12:01 A.M. on July 1, 2018.

IN WITNESS WHEREOF the parties have executed this Agreement.

SURVIVING CORPORATION:

BROADBAND TELCOM POWER, INC.,
 a California Corporation

By: [Signature]
 Frank Meza, President

By: [Signature]
 Frank Meza, Secretary

MERGING CORPORATION:

BTCP MERGER SUB, INC.,
 a California Corporation

By: [Signature]
 Simon Loeffler, President

By: [Signature]
 Simon Loeffler, Secretary

EXHIBIT A

AMENDED AND RESTATED ARTICLES OF INCORPORATION

I

NAME

The name of this corporation is Broadband Telcom Power, Inc. (the "Corporation").

II

CORPORATE PURPOSE

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

III

AUTHORIZED SHARES

This Corporation is authorized to issue only one class of stock. The total number of shares of Common Stock that this Corporation is authorized to issue is One Hundred (100), which shall be designated as "Common Stock," no par value per share.

IV

LIMITATION OF DIRECTOR LIABILITY

The liability of the directors of this Corporation for monetary damages shall be eliminated to the fullest extent permissible under California law.

V

INDEMNIFICATION OF AGENTS

This Corporation is authorized to provide indemnification of its agents (as defined in Section 317 of the Code) for breach of duty to the Corporation and its shareholders through bylaw provisions or through agreements with the agents, or both, in excess of the indemnification expressly permitted by Section 317 of the Code, subject to the exceptions for limitation of liability set forth in Section 204 of the Code, the prohibitions on indemnification set forth in Section 317 of the Code, and other applicable prohibitions and exceptions set forth in the Code.

OFFICERS' CERTIFICATE OF APPROVAL
OF
AGREEMENT OF MERGER

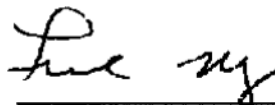
Frank Meza hereby certifies the following:

1. He is the President and the Secretary of Broadband Telecom Power, Inc., a California corporation (the "Corporation").
2. The Agreement of Merger to which this Certificate is attached (the "Agreement of Merger") has been duly approved by the Board of Directors of the Corporation.
3. The Corporation has only one class of shares and the number of shares outstanding and entitled to vote on the merger was 31,563,826.86.
4. The principal terms of the Agreement of Merger were approved by the shareholders of the Corporation by a vote that equaled or exceeded the vote required. The vote required was greater than 50% of the outstanding shares of the Corporation.

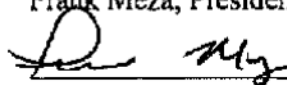
I further declare under penalty of perjury under the laws of the State of California that the matters set forth in this certificate are true and correct of my own knowledge.

Date:

6/29/18



Frank Meza, President



Frank Meza, Secretary

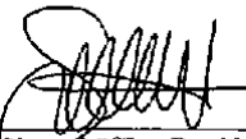
OFFICERS' CERTIFICATE OF APPROVAL
OF
AGREEMENT OF MERGER

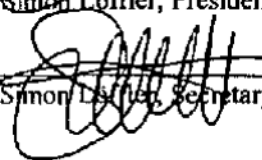
Simon Löffler hereby certifies the following:

1. He is the President and the Secretary of BTCP Merger Sub, Inc., a California corporation (the "Corporation").
2. The Agreement of Merger to which this Certificate is attached (the "Agreement of Merger") has been duly approved by the Board of Directors of the Corporation.
3. The Corporation has only one class of shares and the number of shares outstanding and entitled to vote on the merger was 100.
4. The principal terms of the Agreement of Merger were approved by the shareholders of the Corporation by a vote that equaled or exceeded the vote required. The shareholder approval was by the holders of 100% of the outstanding shares of the Corporation.

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

Date: June 29, 2018


Simon Löffler, President


Simon Löffler, Secretary



Secretary of State

Certificate of Status

I, SHIRLEY N. WEBER, PH.D., California Secretary of State, hereby certify:

Entity Name: BROADBAND TELCOM POWER, INC.
Entity No.: 2161727
Registration Date: 04/26/1999
Entity Type: Stock Corporation - CA - General
Formed In: CALIFORNIA
Status: Active

The above referenced entity is active on the Secretary of State's records and is authorized to exercise all its powers, rights and privileges in California.

This certificate relates to the status of the entity on the Secretary of State's records as of the date of this certificate and does not reflect documents that are pending review or other events that may impact status.

No information is available from this office regarding the financial condition, status of licenses, if any, business activities or practices of the entity.



IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of January 22, 2024.

A handwritten signature in black ink, appearing to read "S. N. Weber".

SHIRLEY N. WEBER, PH.D.
Secretary of State

Certificate No.: 175453333

To verify the issuance of this Certificate, use the Certificate No. above with the Secretary of State Certification Verification Search available at bizfileOnline.sos.ca.gov.