

A157926

AMENDED AND RESTATED ARTICLES OF INCORPORATION

OF

SILICON STORAGE TECHNOLOGY, INC.

MAR 5 1995

BILL JOSEPH

Bing Yeh and Yaw-Wen Hu hereby certify that:

1. They are the President and Secretary, respectively, of Silicon Storage Technology, Inc., a California corporation (the "Corporation").
2. The Articles of Incorporation of the Corporation are amended and restated to read in their entirety as follows:

I. NAME.

The name of the Corporation is Silicon Storage Technology, Inc.

II. 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 under the California Corporations Code.

III. STOCK.

The Corporation is authorized to issue two classes of shares to be designated, respectively, "Common Stock" and "Preferred Stock." The total number of shares the Corporation shall have the authority to issue is 15,000,000 shares of Common Stock, without par value, and 7,000,000 shares of Preferred Stock, without par value. The Preferred Stock may be issued from time to time in one or more series.

Except as set forth in this Article III, the Board of Directors is authorized to fix the number of shares of any series of Preferred Stock and to determine the designation of any such series. The Board of Directors is further authorized to determine or alter the rights, preferences, privileges and restrictions granted to or imposed upon any wholly unissued series of Preferred Stock and, 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 of Preferred Stock, to increase or decrease (but not below the number of shares of such series then outstanding) the number of shares of any such series subsequent to the issue of shares of that series. The first series of Preferred Stock shall be designated "Series A Preferred" and shall consist of one million one hundred twenty thousand (1,120,000) shares; the second series of Preferred Stock shall be designated "Series B Preferred" and shall consist of two million three hundred ninety two thousand five hundred (2,392,500) shares; the third series of Preferred Stock shall be designated "Series C Preferred" and shall consist of one million two hundred fifty thousand (1,250,000) shares. The Series A Preferred, Series B Preferred and Series C Preferred are referred to herein collectively as the "Series Preferred".

The relative rights, preferences, privileges and restrictions granted to or imposed upon the shares of Common Stock and Series Preferred and the holders thereof are as follows:

1. Dividends.

For each share of Series Preferred held by them (appropriately adjusted for any recapitalization, stock dividend, stock split or similar event (a "Recapitalization")), the holders of the Series Preferred shall be entitled to receive, when and as declared by the Board of Directors, out of funds legally available therefor, dividends per annum, payable in preference and priority to any payment of any dividend on Common Stock of the Corporation, at the rates of \$0.05 per share of Series A Preferred, \$0.20 per share of Series B Preferred and \$0.40 per share of Series C Preferred, or at such greater rate per share (on an as-converted basis) as paid on Common Stock; provided, however, that no dividends or other distributions shall be paid or declared and set apart for any series of Series Preferred unless at the same time a dividend or distribution in like proportion is paid or declared and set apart for each series of Series Preferred. Such dividends shall not be cumulative and no right to such dividends shall accrue to holders of Series Preferred unless declared by the Board of Directors.

2. Liquidation Preference.

(a) In the event of any liquidation, dissolution, or winding up of the Corporation, either voluntary or involuntary (a "Liquidation"), the holders of the Series Preferred shall be entitled to receive, prior and in preference to any distribution of any of the assets or surplus funds of the Corporation to the holders of the Common Stock by reason of their ownership of such stock, the amount of (i) \$0.50 per share for each share of Series A Preferred then held by them, \$2.00 per share for each share of Series B Preferred then held by them and \$4.00 per share for each share of Series C Preferred then held by them (in each case adjusted for any Recapitalizations with respect to such shares) and (ii) an amount equal to all declared but unpaid dividends on such shares. If the assets and funds thus distributed among the holders of the Series Preferred 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 among the holders of the Series Preferred in the

proportion that the aggregate preferential amount of shares of Series Preferred held by each such holder bears to the aggregate preferential amount of all shares of Series Preferred.

(b) If, after payment has been made to the holders of Series Preferred of the full preferential amounts to which they are entitled as aforesaid, assets or surplus funds remain in the Corporation, the holders of Common Stock shall be entitled to an amount per share equal to \$0.10 (as adjusted for stock splits, combinations or similar events) or a lesser amount distributed ratably in the event of insufficient assets and surplus funds.

(c) After payment has been made to the holders of the Series Preferred and the holders of Common Stock of the full preferential amounts to which they are entitled as aforesaid, the holders of the Series Preferred and the holders of Common Stock shall be entitled to receive all remaining assets of the Corporation, pro rata, with each share of Series Preferred participating therein and being treated as if converted into shares of Common Stock.

(d) For purposes of this Section 2, a merger or consolidation of the Corporation with or into any other corporation or corporations (other than a wholly-owned subsidiary of the Corporation), or the merger of any other corporation or corporations into the Corporation, or the sale of all or substantially all of the assets of the Corporation, or any other corporate reorganization, in which consolidation, merger, sale of assets or reorganization the shareholders of the Corporation receive distributions in cash or securities of another corporation or corporations as a result of such consolidation, merger, sale of assets or reorganization, or in which the Corporation's shareholders holding shares immediately prior to such transaction will not hold (by virtue of the securities issued in such transaction) at least fifty percent (50%) of the voting power of the surviving, continuing or purchasing entity, shall be treated as a Liquidation.

(e) As authorized by Section 402.5(c) of the California Corporations Code, the provisions of Sections 502, 503 and 506 of the California Corporations Code shall not apply with respect to repurchase by the Corporation of shares of Common Stock issued to or held by employees or consultants of the Corporation or its subsidiaries upon termination of their employment or services pursuant to an agreement providing for the right of said repurchase.

3. Voting Rights.

(a) General. Except as set forth in Section 3(b) below and as otherwise required by law or by Section 5 hereof, the holder of each share of Common Stock issued and outstanding shall have one vote and the holder of each share of Series Preferred shall be entitled to the number of votes equal to the number of shares of Common Stock into which such share of Series Preferred could be converted at the record date for determination of the shareholders entitled to vote on such matters, or, if no such record date is established, at the date such vote is taken or any written consent of shareholders is solicited, such votes to be counted together with all other shares of stock of the Corporation having general voting power and not separately as a class. Holders of Common Stock and/or Series Preferred shall be entitled to notice of any

shareholders' meeting in accordance with the Bylaws of the Corporation. Fractional votes by the holders of Series Preferred shall not, however, be permitted and any fractional voting rights shall (after aggregating all shares into which shares of Series Preferred held by each holder could be converted) be rounded to the nearest whole number.

(b) Voting for Election of Directors. So long as at least 200,000 shares of Series A Preferred are outstanding, the holders of the Series A Preferred shall be entitled, voting separately as one class, to elect one (1) director of the Corporation at each annual election of directors. So long as at least 200,000 shares of Series B Preferred are outstanding, the holders of the Series B Preferred shall be entitled to elect one (1) director of the Corporation at each annual election of directors. So long as at least 200,000 shares of Series C Preferred are outstanding, the holders of the Series C Preferred shall be entitled to elect one (1) director of the Corporation at each annual election of directors. The holders of the Common Stock shall be entitled, voting separately as one class, to elect two (2) directors of the Corporation at each annual election of directors.

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

(a) Right to Convert.

(i) Each share of Series A Preferred shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share, at the office of the Corporation or any transfer agent for the Series A Preferred, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing \$0.50 by the Series A Conversion Price (determined as hereinafter provided) in effect at the time of the conversion. The price at which shares of Common Stock shall be deliverable upon conversion of shares of Series A Preferred (the "Series A Conversion Price") shall initially be \$0.50 per share of Common Stock.

(ii) Each share of Series B Preferred shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share, at the office of the Corporation or any transfer agent for the Series B Preferred, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing \$2.00 by the Series B Conversion Price (determined as hereinafter provided) in effect at the time of the conversion. The price at which shares of Common Stock shall be deliverable upon conversion of shares of Series B Preferred (the "Series B Conversion Price") shall initially be \$2.00 per share of Common Stock.

(iii) Each share of Series C Preferred shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share, at the office of the Corporation or any transfer agent for the Series C Preferred, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing \$4.00 by the Series C

Conversion Price (determined as hereinafter provided) in effect at the time of the conversion. The price at which shares of Common Stock shall be deliverable upon conversion of shares of Series C Preferred (the "Series C Conversion Price") shall initially be \$4.00 per share of Common Stock:

(iv) The Series A Conversion Price, Series B Conversion Price and Series C Conversion Price shall be subject to adjustment as hereinafter provided. As used herein, the term "Conversion Price" shall refer to the Series A Conversion Price, Series B Conversion Price and Series C Conversion Price as applicable to the Series A Preferred, Series B Preferred and Series C Preferred.

(b) Automatic Conversion.

(i) Each share of Series A Preferred, Series B Preferred and Series C Preferred shall automatically be converted into shares of Common Stock at the then effective Conversion Price upon the closing of a firm commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, covering the offer and sale of Common Stock for the account of the Corporation to the public at a price per share (prior to underwriter commissions and offering expenses) of not less than \$4.00 per share (appropriately adjusted for any Recapitalizations) and an aggregate offering price to the public of not less than \$15,000,000, *provided, however*, if the price per share is less than the Target Price calculated as follows (as adjusted for stock splits, combinations or similar events):

$$\text{Target Price} = \$4.00 \times [1 + (.50 \times N/12)]$$

then the Series C Conversion Price shall be adjusted immediately prior to such conversion as follows:

$$\text{Series C Conversion Price} = \frac{P}{1 + (.50 \times N/12)}$$

or

\$2.00, whichever is higher

For the purposes of this subsection (i),

N = the number of whole months from the Original Issue Date of the Series C Preferred

P = the offering price per share of Common Stock received by the Corporation

(ii) In the event of the automatic conversion of the Series Preferred as aforesaid, the person(s) entitled to receive the Common Stock issuable upon such conversion shall not be deemed to have converted such Series Preferred until immediately prior to the closing of such sale of securities.

(iii) Each share of a series of Series Preferred shall automatically be converted into shares of Common Stock at the then effective Conversion Price if the holders of at least 66 2/3% of the outstanding shares of such series of Series Preferred vote in favor of such conversion.

(c) Mechanics of Conversion. No fractional shares of Common Stock shall be issued upon conversion of Series Preferred. In lieu of any fractional shares to which the holder would otherwise be entitled, the Corporation shall pay cash equal to such fraction multiplied by the then effective Conversion Price for such series. Before any holder of Series Preferred shall be entitled to convert the same into full shares of Common Stock and to receive certificates therefor, he shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Corporation or of any transfer agent for such series of Series Preferred, as applicable, and shall give written notice to the Corporation at such office that he elects to convert the same; provided, however, that in the event of an automatic conversion of a series of Series Preferred pursuant to Section 4(b), the outstanding shares of such series of Series Preferred shall be converted automatically without any further action by the holders of such shares and whether or not the certificates representing such shares are surrendered to the Corporation or the transfer agent for such series, and provided further that the Corporation shall not be obligated to issue certificates evidencing the shares of Common Stock issuable upon such automatic conversion unless the certificates evidencing such shares of Series Preferred are either delivered to the Corporation or the transfer agent for such series as provided above, or the holder notifies the Corporation or the transfer agent for such series that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the Corporation to indemnify the Corporation from any loss incurred by it in connection with such certificates. The Corporation shall, as soon as practicable after delivery of such certificates, or such agreement and indemnification in the case of a lost, stolen or destroyed certificate, issue and deliver at such office to such holder of Series Preferred, a certificate or certificates for the number of shares of Common Stock to which he shall be entitled as aforesaid and a check payable to the holder in the amount of any cash amounts payable as the result of a conversion into fractional shares of Common Stock. 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 Series Preferred to be converted (or, in the case of automatic conversion pursuant to Section 4(b), the date of the closing of the offering or the vote of the holders of the series of Series Preferred to be converted) and the person or persons entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock on such date. The Corporation shall from time to time in accordance with the laws of the State of California increase the authorized amount of its Common Stock if

at any time the number of shares of Common Stock remaining unissued and available for issuance shall not be sufficient to permit conversion of the Series Preferred.

(d) Adjustments to Conversion Price for Diluting Issues.

(i) Special Definitions. For purposes of this Section 4(d), the following definitions shall apply:

(1) "Options" shall mean rights, options or warrants to subscribe for, purchase or otherwise acquire either Common Stock or Convertible Securities.

(2) "Original Issue Date" shall mean, with respect to each series of Series Preferred, the date on which the first share of such series of Series Preferred was issued.

(3) "Convertible Securities" shall mean any evidences of indebtedness, shares (other than Common Stock) or other securities convertible into or exchangeable for Common Stock.

(4) "Additional Shares of Common Stock" shall mean, with respect to each series of Series Preferred, all shares of Common Stock issued (or, pursuant to Section 4(d)(iii), deemed to be issued) by the Corporation after the Original Issue Date of such series of Series Preferred, other than shares of Common Stock issued (or, pursuant to Section 4(d)(iii), deemed to be issued) or issuable at any time:

(A) upon conversion of shares of Series Preferred;

(B) to officers, directors and employees of, and consultants (including scientific advisors) to, the Corporation pursuant to any employee stock offering plan or arrangement approved by a majority of the Board of Directors;

(C) pursuant to an agreement or agreements relating to a corporate partnering arrangement involving the Corporation unanimously approved by the Board of Directors;

(D) as a dividend or distribution on the Series Preferred or any event for which adjustment is made pursuant to subparagraph (d)(vi) hereof; or

(E) 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), (B), (C), or (D), or this clause (E) or on shares of Common Stock so excluded.

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

(iii) Deemed Issue of Additional Shares of Common Stock.

(1) Options and Convertible Securities. Except as otherwise provided in Section 4(d)(i)(4), in the event the Corporation at any time or from time to time after the Original Issue Date shall issue any Options or Convertible Securities or shall fix a record date for the determination of holders of any class of securities entitled to receive any such Options or Convertible Securities, then the maximum number of shares (as set forth in the instrument relating thereto without regard to any provisions contained therein for a subsequent adjustment of such number) of Common Stock issuable upon the exercise of such Options or, in the case of Convertible Securities and options therefor, the conversion or exchange of such Convertible Securities, shall be deemed to be Additional Shares of Common Stock issued as of the time of such issue or, in case such a record date shall have been fixed, as of the close of business on such record date, provided that in any such case in which Additional Shares of Common Stock are deemed to be issued:

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

(B) if such Options or Convertible Securities by their terms provide, with the passage of time or otherwise, for any increase in the consideration payable to the Corporation, or decrease in the number of shares of Common Stock issuable, upon the exercise, conversion or exchange thereof, the Conversion Price computed upon the original issue thereof (or upon the occurrence of a record date with respect thereto), and any subsequent adjustments based thereon, shall, upon any such increase or decrease becoming effective, be recomputed to reflect such increase or decrease insofar as it affects such Options or the rights of conversion or exchange under such Convertible Securities;

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

(I) in the case of Convertible Securities or Options for Common Stock, the only Additional Shares of Common Stock issued were shares of Common Stock, if any, actually issued upon the exercise of such Options or the conversion or exchange of such Convertible Securities and the consideration received therefor was the consideration actually received by the Corporation for the issue of all such options, whether or not exercised, plus the consideration actually received by the Corporation upon such exercise, or for the issue of all such Convertible Securities, whether or not actually converted or exchanged, plus the additional consideration, if any, actually received by the Corporation upon such conversion or exchange, and

(II) in the case of options for Convertible Securities, only the Convertible Securities, if any, actually issued upon the exercise thereof were issued at the time of issue of such options, and the consideration received by the Corporation for the Additional Shares of Common Stock deemed to have been then issued was the consideration actually received by the Corporation for the issue of all such Options, whether or not exercised, plus the consideration actually received by the Corporation upon the issue of the Convertible Securities with respect to which such Options were actually exercised;

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

(E) in the case of any Options which expire by their terms not more than 45 days after the date of issue thereof, no adjustment of the Conversion Price shall be made until the expiration or exercise of all such Options.

(iv) Adjustment of Conversion Price Upon Issuance of Additional Shares of Common Stock. In the event this Corporation shall issue Additional Shares of Common Stock without consideration or for a consideration per share less than the Conversion Price in effect on the date of and immediately prior to such issue, then and in such event, such Conversion Price shall be reduced, concurrently with such issue, to a price (calculated to the nearest cent) determined by multiplying such Conversion Price by a fraction, the numerator of which shall be the number of shares of Common Stock outstanding immediately prior to such issue plus the number of shares of Common Stock which the aggregate consideration received by the Corporation for the total number of Additional Shares of Common Stock so issued would purchase at such Conversion Price; and the denominator of which shall be the number of shares of Common Stock outstanding immediately prior to such issue plus the number of such Additional Shares of Common Stock so issued; and provided further that, for the purposes of this Section 4(d)(iv), all shares of Common Stock issuable upon conversion of outstanding options and Convertible Securities (including the Series Preferred) shall be deemed to be outstanding, and immediately after any Additional Shares of Common Stock are deemed issued

pursuant to Section 4(d)(iii), such Additional Shares of Common Stock shall be deemed to be outstanding.

(v) Determination of Consideration. For purposes of this Section 4(d), the consideration received by the Corporation for the issue of any Additional Shares of Common Stock shall be computed as follows:

(1) Cash and Property: Such consideration shall:

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

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

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

(2) Options and Convertible Securities. The consideration per share received by the Corporation for Additional Shares of Common Stock deemed to have been issued pursuant to Section 4(d)(iii), relating to Options and Convertible Securities, shall be determined by dividing

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

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

(vi) Adjustments for Subdivisions, Stock Dividends, Combinations or Consolidation of Common Stock. In the event that after the Original Issue Date the outstanding shares of Common Stock shall be subdivided or increased (by stock split, stock dividend or otherwise), into a greater number of shares of Common Stock, the Conversion Price then in effect shall, concurrently with the effectiveness of such subdivision or the close of business on the record date for the determination of holders of Common Stock entitled to receive such stock dividend, be proportionately decreased; provided, however, that if following the record date with respect to such stock dividend such dividend is not fully paid, the Conversion Price shall be recomputed accordingly based on the number of shares of Common Stock actually issued. In the event the outstanding shares of Common Stock shall be combined or consolidated, by reclassification, reverse stock split or otherwise, into a lesser number of shares of Common Stock, the Conversion Price then in effect shall, concurrently with the effectiveness of such combination or consolidation, be proportionately increased.

(e) Adjustments for Other Distributions. In the event the Corporation at any time or from time to time makes, or fixes a record date for the determination of holders of Common Stock entitled to receive, any distribution payable in securities of the Corporation other than shares of Common Stock and other than as otherwise adjusted in this Section 4 or as otherwise provided in Section 2(d), then and in each such event provision shall be made so that the holders of Series Preferred shall receive upon conversion thereof, in addition to the number of shares of Common Stock receivable thereupon, the amount of securities of the Corporation which they would have received had their Series Preferred been converted into Common Stock on the date of such event and had they thereafter, during the period from the date of such event to and including the date of conversion, retained such securities receivable by them as aforesaid during such period, subject to all other adjustments called for during such period under this Section 4 with respect to the rights of the holders of the Series Preferred.

(f) Adjustments for Reclassification, Exchange and Substitution. If the Common Stock issuable upon conversion of the Series Preferred shall be changed into the same or a different number of shares of any other class or classes of stock, whether by capital reorganization, reclassification or otherwise (other than a subdivision or combination of shares provided for above), the Conversion Price then in effect shall, concurrently with the effectiveness of such reorganization or reclassification, be proportionately adjusted such that the Series Preferred shall be convertible into, in lieu of the number of shares of Common Stock which the holders would otherwise have been entitled to receive, a number of shares of such other class or classes of stock equivalent to the number of shares of Common Stock that would have been subject to receipt by the holders upon conversion of the Series Preferred immediately before that change.

(g) No Impairment. Except as provided in Section 5, the Corporation will not, 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, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed

hereunder by the 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 Preferred against impairment.

(h) Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the Conversion Price pursuant to this Section 4, the Corporation at its expense shall promptly compute such adjustment or readjustment in accordance with the terms hereof and furnish to each holder of Series Preferred a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, upon the written request at any time of any holder of Series Preferred, furnish or cause to be furnished to such holder a like certificate setting forth (i) such adjustments and readjustments, (ii) the Conversion Price at the time in effect, and (iii) the number of shares of Common Stock and the amount, if any, of other property which at the time would be received upon the conversion of Series Preferred.

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

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

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

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

(iv) to merge or consolidate with or into any other corporation, or sell, lease or convey all or substantially all its property or business, or to liquidate, dissolve or wind up;

then, in connection with each such event, this Corporation shall send to the holders of the Series Preferred:

(1) at least 20 days' prior written notice of the date on which a record shall be taken for such dividend, distribution or subscription rights (and specifying the date on which the holders of Common Stock shall be entitled thereto) or for determining rights to vote in respect of the matters referred to in (iii) and (iv) above; and

(2) in the case of the matters referred to in (iii) and (iv) above, at least 20 days' prior written notice of the date when the same shall take place (and specifying the date on which the holders of Common Stock shall be entitled to exchange their Common Stock for securities or other property deliverable upon the occurrence of such event).

Each such written notice shall be delivered personally or given by first class mail, postage prepaid, addressed to the holders of the Series Preferred at the address for each such holder as shown on the books of this Corporation.

5. Covenants. In addition to any other rights provided by law, so long as at least 200,000 shares of a series of Series Preferred (appropriately adjusted for any Recapitalizations) shall be outstanding, this Corporation shall not, without first obtaining the affirmative vote or written consent of the holders of not less than 50% of the outstanding shares of such series of Series Preferred, with such series voting separately as a class:

(a) alter or change the rights, preferences, privileges or powers of, or the restrictions provided for the benefit of, such series of Series Preferred, provided that in any event no such action may be taken unless the effect thereof is to treat all outstanding shares of the affected series of Series Preferred equally;

(b) increase or decrease the authorized number of shares of such series;

(c) create (by reclassification or otherwise) any new class or series of stock or any other securities convertible into equity securities of the Corporation having rights, preferences, privileges or powers senior to such series;

(d) pay or declare any dividend or distribution on any shares of Common Stock or apply any of its assets to the redemption, retirement, purchase or other acquisition, directly or indirectly, of any shares of Common Stock except from employees of or consultants (including scientific advisors) to the Corporation upon termination of their employment or services pursuant to an agreement providing for the right of said repurchase;

(e) sell, lease, exchange, convey or otherwise dispose of or encumber all or substantially all of the property or business of the Corporation or merge with or into or consolidate with any other corporation (other than a wholly-owned subsidiary of the Corporation); or

(f) amend or waive any provision of the Articles of Incorporation or Bylaws of the Corporation relative to such series;

6. Status of Converted Shares. In case shares of Series Preferred shall be converted pursuant to Section 4 hereof, the shares so converted shall be canceled, retired and eliminated from the shares which the Corporation is authorized to issue.

IV. LIMITATION OF LIABILITY.

The liability of the directors of the Corporation for monetary damages shall be ~~eliminated~~ to the fullest extent permissible under California law as the same exists or may hereafter be amended. Any repeal or modification of the foregoing provisions of this Article IV by the shareholders of the Corporation shall only be prospective and shall not adversely affect any right or protection of a director of the Corporation existing at the time of such repeal or modification.

V. ADDITIONAL RIGHTS OF INDEMNIFICATION.

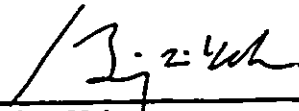
The Corporation is authorized to provide indemnification of agents (as defined in Section 317 of the California Corporations Code) through bylaw provisions, agreements with agents, vote of shareholders or disinterested directors or otherwise, in excess of the indemnification otherwise permitted by Section 317 of the California Corporations Code, subject only to the applicable limits on such excess indemnification set forth in Section 204 of the California Corporations Code with respect to actions for breach of duty to the Corporation and its shareholders. Any repeal or modification of this Article V shall only be prospective and shall not affect the rights under this Article V in effect at the time of the alleged occurrence of any act or omission to act giving rise to indemnification."

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

4. The foregoing amendment and restatement of the Articles of Incorporation of the Corporation has been duly approved by the shareholders of the Corporation in accordance with the Sections 902 and 903 of the California Corporations Code. The total number of outstanding shares of the Corporation is 3,232,409 shares of Common Stock, 1,120,000 shares of Series A Preferred and 2,367,500 shares of Series B Preferred. The number of shares of Common Stock, Series A Preferred and Series B Preferred voting in favor of the amendment and restatement equaled or exceeded the vote required. The percentage vote required was more than fifty percent (50%) of the outstanding shares of Common Stock, Series A Preferred and Series B Preferred voting together as a class and more than fifty percent (50%) of the outstanding shares of Common Stock, Series A Preferred and Series B Preferred, each voting separately as a class.

The undersigned 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 their own knowledge.

DATE: February 21, 1995



Bing Yeh
President



Yaw-Wen Hu
Secretary