

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**  
WASHINGTON, DC 20549

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**FORM 8-K**

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**CURRENT REPORT**

**PURSUANT TO SECTION 13 OR 15(D) OF THE  
SECURITIES EXCHANGE ACT OF 1934**

**Date of report (Date of earliest event reported) November 13, 2012**

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**Revolution Lighting Technologies, Inc.**

(Exact Name of Registrant as Specified in Its Charter)

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**Delaware**

(State or Other Jurisdiction of Incorporation)

**0-23590**

(Commission  
File Number)

**59-3046866**

(IRS Employer  
Identification No.)

**124 Floyd Smith Drive, Suite 300, Charlotte, North Carolina**

(Address of Principal Executive Offices)

**28262**

(Zip Code)

**(704) 405-0416**

(Registrant's Telephone Number, Including Area Code)

**Nexus Lighting, Inc.**

(Former Name or Former Address, if Changed Since Last Report)

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Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (*see* General Instruction A.2. below):

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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**Item 1.01 Entry into a Material Definitive Agreement.**

On November 13, 2012, the Board of Directors (the “Board”) of Revolution Lighting Technologies, Inc. (the “Company”) authorized a form of indemnification agreement to be entered into with the directors and officers of the Company (the “Indemnification Agreement”). The Indemnification Agreement, among other things, obligates the Company to indemnify a director or officer, to the fullest extent permitted by applicable law, for certain expenses, including attorneys’ fees, judgments, penalties, fines and settlement amounts actually and reasonably incurred by them in any action or proceeding arising out of their services as one of our directors or officers.

The foregoing is a summary of the material terms of the Indemnification Agreement. Investors are encouraged to review the entire text of the Indemnification Agreement, a copy of which is filed as Exhibit 10.1 to this Report and incorporated herein by reference.

**Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year**

On November 14, 2012, the Company filed with the Secretary of State of Delaware an amended and restated Certificate of Incorporation (the “Amended and Restated Certificate of Incorporation”) to restate, integrate and amend the provisions of the Company’s Certificate of Incorporation. The amendments: (i) increased the number of authorized shares of the Company’s common stock, \$0.001 par value per share, from 40,000,000 shares to 120,000,000 shares; (ii) changed the Company’s name from “Nexxus Lighting, Inc.” to “Revolution Lighting Technologies, Inc.”; and (iii) caused the Company to opt out of the provisions of Section 203 of the Delaware General Corporation Law.

The foregoing is a summary of the provisions of the Certificate of Incorporation changed by amendment. Investors are encouraged to review the entire text of the Amended and Restated Certificate of Incorporation, a copy of which is filed as Exhibit 3.1 to this Report and incorporated herein by reference.

**Item 9.01 Financial Statements and Exhibits.****(d) Exhibits**

<u>Exhibit</u> <u>No.</u>	<u>Description</u>
3.1	Amended and Restated Certificate of Incorporation of Revolution Lighting Technologies, Inc.
10.1	Form of Indemnification Agreement

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## SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

November 16, 2012

**REVOLUTION LIGHTING, INC.**

/s/ Gary R. Langford

Name: Gary R. Langford

Title: Chief Financial Officer

**AMENDED AND RESTATED CERTIFICATE  
OF  
INCORPORATION  
OF  
NEXXUS LIGHTING, INC.**

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

Nexus Lighting, Inc. (the “**Corporation**”), a corporation organized and existing under and by virtue of the provisions of the General Corporation Law of the State of Delaware (the “**General Corporation Law**”),

**DOES HEREBY CERTIFY THAT:**

1. The name of the Corporation is Nexus Lighting, Inc. The Corporation was originally incorporated pursuant to the General Corporation Law on December 16, 1993 under the name Super Vision International, Inc.
2. That the board of directors of the Corporation (the “**Board of Directors**”) duly adopted resolutions proposing to amend and restate the Certificate of Incorporation of the Corporation, declaring said amendment and restatement to be advisable and in the best interests of the Corporation and its stockholders, and authorizing the appropriate officers of the Corporation to solicit the consent of the stockholders therefor, which resolution setting forth the proposed amendment and restatement is as follows.
3. That the following amendment and restatement was approved by the holders of the requisite number of shares of the Corporation in accordance with Section 228 of the General Corporation Law.
4. That this Amended and Restated Certificate of Incorporation, which restates and integrates and further amends the provisions of the Corporation’s Certificate of Incorporation, has been duly adopted in accordance with Sections 242 and 245 of the General Corporation Law.

**RESOLVED**, that the Amended and Restated Certificate of Incorporation of the Corporation be amended and restated in its entirety to read as follows:

**FIRST:** The name of the corporation is Revolution Lighting Technologies, Inc.

**SECOND:** The registered office of the Corporation is to be located at 2711 Centerville Road, Suite 400 in the City of Wilmington, in the County of New Castle, in the State of Delaware, 19808. The name of its registered agent at that address is Corporation Service Company.

**THIRD:** 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.

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**FOURTH:** The total number of shares of stock which the Corporation shall be authorized to issue is One Hundred and Twenty Million (120,000,000) shares of Common Stock, each share having \$0.001 par value, and Five Million (5,000,000) shares of Preferred Stock, each share having \$0.001 par value.

The Board of Directors may divide the Preferred Stock into any number of series, fix the designation and number of shares of each such series, and determine or change the designation, relative rights, preferences, and limitations of any series of Preferred Stock. The Board of Directors has previously designated the Series B Convertible Preferred Stock as provided in the certificate of designations attached hereto. The Board of Directors (within the limits and restrictions of any resolutions adopted by it originally fixing the number of shares of any series of Preferred Stock) may increase or decrease the number of shares initially fixed for any series, but no such decrease shall reduce the number below the number of shares then outstanding and shares duly reserved for issuance.

**FIFTH:** The name and address of the incorporator is MaryJoan A. Floresta and her mailing address is c/o Bachner, Tally, Polevoy & Misher, 380 Madison Avenue, New York, New York 10017.

**SIXTH:** The following provisions are inserted for the management of the business and for the conduct of the affairs of the Corporation, and for further definition, limitation and regulation of the powers of the Corporation and of its directors and stockholders:

(1) The election of directors need not be by written ballot, unless the by-laws so provide.

(2) The Board of Directors shall have power without the assent or vote of the stockholders to make, alter, amend, change, add to or repeal the By-Laws of the Corporation.

**SEVENTH:** The Corporation shall indemnify and advance expenses to the fullest extent permitted by Section 145 of the General Corporation Law, as amended from time to time, each person who is or was a director or officer of the Corporation and the heirs, executors and administrators of such a person.

**EIGHTH:** Whenever a compromise or arrangement is proposed between the Corporation and its creditors or any class of them and/or between the Corporation and its stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware, may, on application in a summary way of the Corporation or of any creditor or stockholder thereof or on the application of any receiver or receivers appointed for the Corporation under Section 291 of the General Corporation Law or on the application of trustees in dissolution or of any receiver or receivers appointed for the Corporation under Section 279 of the General Corporation Law order a meeting of the creditors or class of creditors, and/or of the stockholders or a class of stockholders of the Corporation, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three-fourths in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders of the Corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of the Corporation as a consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which

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the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class of stockholders, of the Corporation, as the case may be, and also on the Corporation.

**NINTH:** The personal liability of directors of the Corporation is hereby eliminated to the full extent permitted by Section 102(b)(7) of the General Corporation Law as the same may be amended and supplemented.

**TENTH:** The Corporation expressly elects not to be governed by Section 203 of the General Corporation Law, as from time to time in effect or any successor provision thereto.

**ELEVENTH:** The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Amended and Restated Certificate of Incorporation in the manner now or hereafter prescribed by law, and all rights and powers conferred herein on stockholders, directors and officers are subject to this reserved power.

\* \* \*

*[Signature Page Follows]*

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**IN WITNESS WHEREOF**, the undersigned being the Chief Financial Officer of the Corporation, DOES HEREBY CERTIFY that the facts hereinabove stated are truly set forth and, accordingly, such officer has hereunto set his hand as of this 14th day of November, 2012.

By: /s/ Gary R. Langford

Name: Gary R. Langford

Title: Chief Financial Officer

[Nexus Lighting, Inc. – Amended and Restated Certificate of Incorporation]

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**CERTIFICATE OF DESIGNATIONS, PREFERENCES  
AND RIGHTS OF THE  
SERIES B CONVERTIBLE PREFERRED STOCK  
OF  
NEXXUS LIGHTING, INC.**

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Pursuant to Section 151 of the  
Delaware General Corporation Law

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Nexus Lighting, Inc. (the “**Corporation**”), a corporation organized and existing under the laws of the State of Delaware, hereby certifies that pursuant to the provisions of Section 151 of the Delaware General Corporation Law, its Board of Directors adopted the following resolutions, which resolutions remain in full force and effect as of the date hereof:

WHEREAS, the Board of Directors of the Corporation is authorized to fix by resolution the designation of preferred stock and the powers, preferences and relative participating, optional or other special rights and qualifications, limitations or restrictions thereof; and

WHEREAS, it is the desire of the Board of Directors of the Corporation, pursuant to its authority as aforesaid, to authorize and fix the terms of the preferred stock to be designated the Series B Convertible Preferred Stock of the Corporation and the number of shares constituting such preferred stock;

NOW, THEREFORE, BE IT RESOLVED, that the Corporation be, and hereby is, authorized to issue a new series of its preferred stock, par value \$0.001 per share, on the following terms and with the following designations, power, preferences and rights:

1. **CERTAIN DEFINITIONS.** Unless the context otherwise requires, when used herein the following terms shall have the meaning indicated.

“**Affiliate**” shall mean, in respect of any Person, any other Person that is directly or indirectly controlling, controlled by, or under common control with such Person or any of its Subsidiaries, and the term “**control**” (including the terms “controlled by” and “under common control with”) means having, directly or indirectly, the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities or by contract or otherwise.

“**Board**” shall mean the Board of Directors of the Corporation.

“**Business Combination**” shall mean (i) any reorganization, consolidation, merger, share exchange or similar business combination transaction involving the Corporation (or any Subsidiary) with any Person or (ii) the sale, assignment, conveyance, transfer, lease or other disposition by the Corporation (or any Subsidiary) of all or substantially all of its assets.

“**Business Day**” shall mean any day other than a Saturday, Sunday or a day on which the banks in New York, New York are authorized by law or executive order to be closed.



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**“Common Stock”** shall mean shares of common stock, par value \$0.001, of the Corporation.

**“Common Stock Authorization Amendment”** shall mean an amendment to the Corporation’s Restated Certificate of Incorporation providing for the increase in the authorized shares of Common Stock from 40,000,000 shares to 120,000,000.

**“Common Stock Event”** shall mean at any time after the date of the original issuance of shares of Series B Preferred Stock, (i) the issue by the Corporation of additional shares of Common Stock as a dividend or other distribution on outstanding Common Stock, (ii) a subdivision of the outstanding shares of Common Stock into a greater number of shares of Common Stock, or (iii) a combination of the outstanding shares of Common Stock into a smaller number of shares of Common Stock.

**“Conversion Date”** has the meaning set forth in Section 7 hereof.

**“Conversion Price”** has the meaning set forth in Section 7 hereof.

**“Exchange Act”** shall mean the Securities Exchange Act of 1934, as amended, or any successor statute, and the rules and regulations promulgated thereunder.

**“Fair Market Value”** shall mean an amount equal to the per share closing price of the Common Stock on the NASDAQ (or if the Common Stock is not then traded on the NASDAQ, on a similar national securities exchange or national quotation system) for the relevant determination date or, if the relevant determination date is not a Trading Day, on the Trading Day immediately prior to the relevant determination date (as reported on the website of the NASDAQ, or, if not reported thereby, any other authoritative source).

**“Liquidation Preference”** has the meaning set forth in Section 5 hereof.

**“NASDAQ”** shall mean the NASDAQ Stock Market.

**“Parity Securities”** has the meaning set forth in Section 3 hereof.

**“Person”** shall mean an individual, entity or group (within the meaning of Section 13(d)(3) or 14(d)(2) of the Exchange Act).

**“Rights or Options”** shall mean Convertible Securities, warrants, options or other rights to purchase or acquire shares of Common Stock or Convertible Securities.

**“Senior Securities”** has the meaning set forth in Section 3 hereof.

**“Series B Stated Value”** shall mean, with respect to each share of Series B Preferred Stock, Ten Dollars (\$10.00), which Series B Stated Value shall be subject to appropriate adjustment from time to time in the event of any stock dividend, stock split, reverse stock split, reclassification, stock combination or other recapitalization affecting the Series B Preferred Stock.

**“Subsidiary”** of a Person shall mean (i) a corporation, a majority of whose stock with voting power, under ordinary circumstances, to elect directors is at the time of determination, directly or indirectly, owned by such Person or by one or more Subsidiaries of such Person, or (ii) any other entity (other than a corporation) in which such Person or one or more Subsidiaries of such Person, directly or indirectly, at the date of determination thereof has at least a majority ownership interest.

**“Trading Day”** shall mean a day on which the NASDAQ, or if the Corporation’s shares of Common Stock cease to be quoted on the NASDAQ, the principal national securities exchange on which the Corporation’s securities are listed, is open for trading, and only includes those days that have a scheduled closing time of 4:00 p.m. (New York City time) or the then standard closing time for regular trading on the relevant exchange or trading system.

2. **NUMBER OF SHARES AND DESIGNATION.** One Million (1,000,000) shares of preferred stock of the Corporation shall constitute a series of preferred stock, par value \$0.001 per share, of the Corporation designated as Series B Convertible Preferred Stock (the **“Series B Preferred Stock”**). Each share of Series B Preferred Stock shall rank equally in all respects and shall be subject to the following provisions of this Certificate.

3. **RANK.** The Series B Preferred Stock shall, with respect to payment of dividends and rights (including as to the distribution of assets) upon liquidation, dissolution or winding up of the affairs of the Corporation (i) except to the extent otherwise provided herein rank on a parity with the Common Stock (the **“Parity Securities”**), and (ii) rank junior to each other class or series of equity securities of the Corporation, whether currently issued or issued in the future without violation of this Certificate, that by its terms ranks senior to the Series B Preferred Stock as to payment of dividends or rights upon liquidation, dissolution or winding up of the affairs of the Corporation (all of such equity securities are collectively referred to herein as the **“Senior Securities”**). The respective definitions of Parity Securities and Senior Securities shall also include any rights or options exercisable or exchangeable for or convertible into any of the Parity Securities or Senior Securities, as the case may be.

#### 4. **DIVIDENDS.**

(a) Holders of shares of Series B Preferred Stock shall be entitled to participate equally and ratably with the holders of shares of Common Stock in all dividends and distributions paid (whether in the form of cash, securities, evidences of indebtedness, assets or otherwise, of the Corporation, any of its Subsidiaries or any other Person (or rights, options or warrants to subscribe for or acquire any of the foregoing)) on the shares of Common Stock as if immediately prior to each record date for the payment of dividends to the holders of shares of Common Stock, the shares of Series B Preferred Stock then outstanding were converted into shares of Common Stock (in the manner described in Section 7 below, but without regard to the limitations on conversion set forth in the third sentence of Section 7(b)(iii) below). Dividends or distributions payable pursuant to the preceding sentence shall be payable on the same date that such dividends or distributions are payable to holders of shares of Common Stock. Each such dividend or distribution shall be payable to the holders of record of shares of Series B Preferred Stock as they appear on the stock records of the Corporation at the close of business on the applicable record date, which shall be not more than sixty (60) days nor less than ten (10) days preceding the related dividend or distribution payment date, as shall be fixed by the Board.

(b) If there shall be any dividend or distribution, in which holders of Series B Preferred Stock shall be entitled to participate pursuant to this Certificate, which is in the form of Common Stock or rights, options or warrants to subscribe for or acquire Common Stock, then such dividend or distribution shall instead be made to such holder in the form of Series B Preferred Stock (with the number of shares of Series B Preferred Stock issuable in such dividend or distribution being equal to the number of shares of Series B Preferred Stock that would be convertible under Section 7 (but without regard to the limitations on conversion set forth in the third sentence of Section 7(b)(iii) below) into the number of shares of Common Stock that such holder would have received in such dividend or distribution, and, in the case of any such dividend or distribution that is in the form of rights, options or warrants to subscribe for or acquire Common Stock, a number of rights, options or warrants to subscribe for or acquire shares of Series B Preferred Stock (with (i) such number of shares of Series B Preferred Stock being equal to the number of shares of Series B Preferred Stock that would be convertible under Section 7 (but without regard to the limitations on conversion set forth in the third sentence of Section 7(b)(iii) below) into the number of shares of Common Stock that such rights, options or warrants would have covered had such rights, options or warrants been to subscribe for or acquire Common Stock and (ii) such other terms of the rights, options or warrants (including exercise price and other terms) being such that such rights, option or warrants have equivalent economic and other terms as the rights, options or warrants to subscribe for or acquire Common Stock).

5. LIQUIDATION PREFERENCE. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the holders of shares of Series B Preferred Stock then outstanding shall, with respect to each share of Series B Preferred Stock, be entitled to be paid in redemption of such share out of the assets of the Corporation available for distribution to its stockholders a liquidation preference equal to \$10.00 per share of Series B Preferred Stock, before any distribution is made to holders of shares of Common Stock (the “**Liquidation Preference**”). Neither a consolidation, merger, share exchange or similar transaction involving the Corporation and any other entity, nor a sale or transfer of all or any part of the Corporation’s assets for cash, securities or other property, shall be considered a liquidation, dissolution or winding up of the Corporation within the meaning of this Section 5.

#### 6. VOTING RIGHTS.

(a) Election of Directors. For so long as the outstanding shares of Series B Preferred Stock, on an as-converted basis, represent the percentage (the “**Series B Preferred Stock Percentage**”) of the outstanding shares of Common Stock set forth below, after giving effect to the conversion into Common Stock of all outstanding shares of Series B Preferred Stock, the holders of record of the shares of Series B Preferred Stock, exclusively and as a separate class, shall be entitled to elect the number of directors of the Corporation (the “**Series B Directors**”) opposite such percentage.

<u>Series B Preferred Stock Percentage</u>	<u>Series B Director(s)</u>
Fifty percent (50%) or more	4
Thirty percent (30%) or more, but less than fifty percent (50%)	3
Twenty percent (20%) or more, but less than thirty percent (30%)	2
Five percent (5%) or more, but less than twenty percent (20%)	1

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In the event that the size of the board of directors is increased in accordance with Section 6(b)(iii) below, the Corporation and the holders of record of the shares of Series B Preferred Stock shall adjust the Series B Preferred Stock Percentages and the corresponding number of Series B Directors as such parties shall determine to be appropriate. Any director elected as provided in the preceding sentence may be removed without cause by, and only by, the affirmative vote of the holders of record of the shares of Series B Preferred Stock, exclusively and as a separate class, given either at a special meeting of such stockholders duly called for that purpose or pursuant to a written consent of stockholders. If the holders of shares of Series B Preferred Stock fail to elect a sufficient number of directors to fill all directorships for which they are entitled to elect directors, voting exclusively and as a separate class, pursuant to the first sentence of this Section 6(a), then any directorship not so filled shall remain vacant until such time as the holders of the Series B Preferred Stock elect a person to fill such directorship by vote or written consent in lieu of a meeting; and no such directorship may be filled by stockholders of the Corporation other than by the holders of record of the shares of Series B Preferred Stock, voting exclusively and as a separate class. The holders of record of the shares of Common Stock and of any other class or series of voting stock (including the Series B Preferred Stock), exclusively and voting together as a single class, shall be entitled to elect the balance of the total number of directors of the Corporation. At any meeting held for the purpose of electing a director, the presence in person or by proxy of the holders of a majority of the outstanding shares of the class or series entitled to elect such director shall constitute a quorum for the purpose of electing such director. Except as otherwise provided in this Section 6(a), a vacancy in any directorship filled by the holders of any class or series shall be filled only by vote or written consent in lieu of a meeting of the holders of such class or series or by any remaining director or directors elected by the holders of such class or series pursuant to this Section 6(a).

(b) Protective Provisions. Except as otherwise provided herein or as required by applicable law, the holders of Series B Preferred Stock shall be entitled to vote on all matters on which the holders of Common Stock shall be entitled to vote, in the same manner and with the same effect as the holders of Common Stock, voting together with the holders of Common Stock as a single class. For purposes of this Section 6, the holders of Series B Preferred Stock shall be given notice of any meeting of stockholders as to which the holders of Common Stock are given notice in accordance with the by-laws of the Corporation. As to any matter on which the holders of Series B Preferred Stock shall be entitled to vote in accordance with the first sentence of this Section 6(b), each holder of Series B Preferred Stock shall have a number of votes per share of Series B Preferred Stock held of record by such holder on the record date for the meeting of stockholders, if such matter is subject to a vote at a meeting of stockholders, or on the effective date of any written consent, if such matter is subject to a written consent of the stockholders without a meeting of stockholders, equal to the number of shares of Common Stock into which such share of Series B Preferred Stock is then convertible on such record date or effective date, as the case may be, in accordance with Section 7 hereof but without regard to the limitations on conversion set forth in the third sentence of Section 7(b)(iii) below.

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As long as shares of Series B Preferred Stock are outstanding, the Corporation shall not, without the affirmative vote or written consent of at least a majority of the then outstanding shares of Series B Preferred Stock, directly or indirectly, take (and shall not permit any Subsidiary to take) any of the following actions or agree to take any of the following actions:

(i) amend, alter or repeal any of the provisions of the Corporation's Restated Certificate of Incorporation or Bylaws or this Certificate of Designations, Preferences and Rights, or in any way change the preferences, privileges, rights or powers with respect to the Series B Preferred Stock or reclassify any class of stock, including, without limitation, by way of merger or consolidation;

(ii) authorize, create, designate, issue or sell any (A) class or series of capital stock (including shares of treasury stock), (B) rights, options, warrants or other securities convertible into or exercisable or exchangeable for capital stock or (C) any debt security which by its terms is convertible into or exchangeable for any capital stock or has any other equity feature or any security that is a combination of debt and equity, which capital stock, in each case, is senior to or pari passu with the Series B Preferred Stock;

(iii) increase the size of the board of directors to greater than seven (7) members;

(iv) increase or decrease the number of authorized shares of any class of capital stock of the Corporation;

(v) agree to any restriction on the Corporation's ability to satisfy its obligations hereunder to holders of Series B Preferred Stock or the Corporation's ability to honor the exercise of any rights of the holders of the Series B Preferred Stock;

(vi) directly or indirectly declare or pay any dividend or make any distribution (whether in cash, shares of capital stock of the Corporation, or other property) on shares of capital stock of the Corporation, or redeem, purchase or otherwise acquire for value (including through an exchange), or set apart money or other property for any mandatory purchase or analogous fund for the redemption, purchase or acquisition of any shares of capital stock of the Corporation (except with respect to the repurchase of shares of Common Stock held by employees, officers or directors of the Corporation, which has been approved by the Board);

(vii) consummate (A) a Business Combination which results in the stockholders of the Corporation (or any Subsidiary) owning less than fifty percent (50%) of the outstanding capital stock of the surviving entity; (B) the issuance and/or sale by the Corporation (or any Subsidiary) in one or a series of related transactions of shares of its common stock (or securities convertible or exchangeable into or exercisable for shares of its common stock) constituting a majority of the shares of common stock outstanding immediately following such issuance (treating all securities convertible or exchangeable into or exercisable for shares of common stock as having been fully converted, exchanged and exercised); and (C) any other form of acquisition or business combination where the Corporation (or any Subsidiary) is the target of such acquisition and where a change in control occurs such that the Person(s) seeking to acquire the Corporation (or any Subsidiary) has the power to elect a majority of its board of directors as a result of the transaction (each such event an "**Acquisition**") or enter into an agreement with respect to an Acquisition;

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(viii) materially change the nature or scope of the business of the Corporation (or any Subsidiary);

(ix) consummate or agree to make any sale, transfer, assignment, pledge, lease, license or similar transaction by which the Corporation (or any Subsidiary) grants on an exclusive basis any rights to any of the Corporation's (or any Subsidiary's) intellectual property;

(x) create, incur, assume or suffer to exist, any lien, charge or other encumbrance on any of its (or any Subsidiary's) properties or assets, other than liens of carriers, warehousemen, artisans, bailees, mechanics and materialmen incurred in the ordinary course of business securing sums not overdue;

(xi) approve the annual budget of the Corporation and/or any Subsidiary or any changes thereto;

(xii) incur any indebtedness for borrowed money (whether directly or indirectly through an Affiliate or otherwise) in excess of twenty-five thousand dollars (\$25,000) in one or a series of related transactions other than trade payables incurred in the ordinary course of business or indebtedness provided for in and consistent with the approved current annual budget;

(xiii) increase the compensation or benefits payable or to become payable to its directors or executive officers other than pursuant to the terms of any agreement as in effect prior to the date hereof;

(xiv) make any loans to its directors, officers or shareholders;

(xv) assume, endorse or become liable for or guaranty the obligations of any Person; or

(xvi) cancel any liability or debt owed to it, except for consideration equal to or exceeding the outstanding balance of such liability or debt, and in any event, in the ordinary course of business.

As to any of the matters set forth in clauses (i) - (xvi) above, each holder of Series B Preferred Stock shall have one vote for each share of Series B Preferred Stock held of record by such holder on the record date for the meeting of stockholders, if such matter is subject to a vote at a meeting of stockholders, or on the effective date of any written consent, if such matter is subject to a written consent of the stockholders without a meeting of stockholders.

#### 7. OPTIONAL CONVERSION.

(a) Conversion upon Transfer. Subject to the terms and conditions of this Section 7 (including without limitation Section 7(b)(iii)), the holder of any share or shares of Series B Preferred Stock shall have the right, at its option at any time, to convert any such shares of Series B Preferred Stock into such number of fully paid and nonassessable shares of Common Stock as is obtained by: (i) multiplying the number of shares of Series B Preferred Stock to be converted by the

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Series B Stated Value; and (ii) dividing the result obtained pursuant to clause (i) above by the Series B Conversion Price then in effect. The date of such conversion (the “**Conversion Date**”) shall be the date that such holder delivers written notice to the transfer agent for the Series B Preferred Stock (or at the principal offices of the Corporation if the Corporation serves as its own transfer agent), that such holder elects to convert such number of shares as is set forth in such notice. The “**Series B Conversion Price**” shall initially be Thirteen Cents (\$0.13), and shall be subject to adjustment as described in Section 7(c) hereof.

(b) Mechanics of Conversion.

(i) On the Conversion Date: (A) the Person in whose name or names any certificate or certificates for shares of Common Stock shall be issuable upon conversion shall be deemed to have become the holder of record of the shares of Common Stock represented thereby at such time, and (B) the shares of Series B Preferred Stock so converted shall no longer be deemed to be outstanding, and all rights of a holder with respect to such shares shall immediately terminate except the right to receive the Common Stock and other amounts payable pursuant to this Section 7. All shares of Common Stock delivered upon conversion of the Series B Preferred Stock will, upon delivery, be duly and validly authorized and issued, fully paid and nonassessable, free from all preemptive rights and free from all taxes, liens, security interests and charges (other than liens or charges created by or imposed upon the holder or taxes in respect of any transfer occurring contemporaneously therewith).

(ii) Holders of shares of Series B Preferred Stock at the close of business on the record date for any payment of a dividend in which shares of Series B Preferred Stock are to participate pursuant to Section 4 hereof shall be entitled to receive the dividend payable on such shares on the corresponding dividend payment date notwithstanding the conversion thereof following such dividend payment record date and prior to such dividend payment date, and a holder of shares of Series B Preferred Stock on a dividend payment record date whose shares of Series B Preferred Stock have been converted pursuant to Section 7(a) into shares of Common Stock on such dividend payment date will receive the dividend payable by the Corporation on such shares of Series B Preferred Stock if and when paid, and the converting holder need not include payment of the amount of such dividend upon conversion of shares of Series B Preferred Stock pursuant to Section 7(a).

(iii) From the date of this Certificate and until the filing of the Common Stock Authorization Amendment with the Secretary of State of the State of Delaware in accordance with the Investment Agreement, the Corporation will at all times reserve and keep available, free from preemptive rights, out of its authorized but unissued Common Stock, solely for the purpose of effecting conversions of the Series B Preferred Stock, Nineteen Million Three Hundred Seventy Seven Thousand Eighty Six (19,377,086) of its authorized but unissued shares of Common Stock (as appropriately adjusted for any stock dividend, stock split, reverse stock split, reclassification, stock combination or other recapitalization occurring after the date hereof). From and after the filing of the Common Stock Authorization Amendment with the Secretary of State of the State of Delaware in accordance with the Investment Agreement, the Corporation will at all times reserve and keep available, free from preemptive rights, out of its authorized but unissued Common Stock, solely for the purpose of effecting conversions of the Series B Preferred Stock, the aggregate number of shares of Common Stock issuable upon conversion of the Series B Preferred Stock (as if all shares of Series B Preferred Stock are so convertible). From the date of this Certificate and until

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the filing of the Common Stock Authorization Amendment with the Secretary of State of the State of Delaware in accordance with the Investment Agreement, the holder of any share or shares of Series B Preferred Stock shall be entitled to convert, in the aggregate, only such number of shares of Series B Preferred Stock as shall be convertible into Nineteen Million Three Hundred Seventy Seven Thousand Eighty Six (19,377,086) of its authorized but unissued shares of Common Stock (as appropriately adjusted for any stock dividend, stock split, reverse stock split, reclassification, stock combination or other recapitalization occurring after the date hereof). The foregoing limitation shall not apply from and after the filing of the Common Stock Authorization Amendment with the Secretary of State of the State of Delaware in accordance with the Investment Agreement. The Corporation will procure, at its sole expense, the listing of all shares of Common Stock issuable upon conversion of Series B Preferred Stock, subject to issuance or notice of issuance, on the principal domestic stock exchange on which the Common Stock is then listed or traded. The Corporation will take all action as may be necessary to ensure that all shares of Common Stock issuable upon conversion of Series B Preferred Stock will be issued without violation of any applicable law or regulation or of any requirement of any securities exchange on which the shares of Common Stock are listed or traded.

(iv) Issuances of certificates for shares of Common Stock upon conversion of the Series B Preferred Stock shall be made without charge to the holder of shares of Series B Preferred Stock or any of its transferees for any issue or transfer tax or other incidental expense in respect of the issuance of such certificates, all of which taxes and expenses shall be paid by the Corporation.

(v) In connection with the conversion of any shares of Series B Preferred Stock, no fractions of shares of Common Stock shall be issued, but in lieu thereof the Corporation shall pay cash in respect of such fractional interest in an amount equal to such fractional interest multiplied by the Fair Market Value per share of Common Stock on the applicable Conversion Date.

(vi) The Corporation shall procure that each share of Common Stock issued as a result of conversion of Series B Preferred Stock shall be accompanied by any rights associated generally with each other share of Common Stock outstanding as of the applicable Conversion Date.

(c) Adjustments to Conversion Price. From and after the date of this Certificate, the Conversion Price shall be adjusted from time to time as follows:

(i) Common Stock Event. Upon the occurrence of a Common Stock Event, the Conversion Price in effect at the time of the record date for such dividend or distribution or the effective date of such subdivision, combination or reclassification shall be adjusted to the number obtained by multiplying the Conversion Price theretofore in effect by a fraction, the numerator of which shall be the number of shares of Common Stock outstanding immediately prior to such action, and the denominator of which shall be the number of shares of Common Stock outstanding immediately following such action.

(ii) Adjustments for Other Dividends and Distributions. If at any time or from time to time after the date of the original issuance of shares of Series B Preferred Stock, the Corporation pays a dividend or makes another distribution to the holders of the Common Stock



payable in securities of the Corporation, other than an event constituting a Common Stock Event then, in each such event, provision shall be made so that the holders of the Series B Preferred Stock shall receive upon conversion thereof, in addition to the number of shares of Common Stock receivable upon conversion thereof, the amount of securities of the Corporation which they would have received had their Series B Preferred Stock been converted into Common Stock on the date of such event (or such record date, as applicable) and had they thereafter, during the period from the date of such event (or such record date, as applicable) to and including the conversion date, retained such securities receivable by them as aforesaid during such period, subject to all other adjustments called for during such period under this Section 7 with respect to the rights of the holders of the Series B Preferred Stock or with respect to such other securities by their terms.

(iii) Adjustment for Reclassification, Exchange and Substitution. If at any time or from time to time after the date of the original issuance of shares of Series B Preferred Stock, the Common Stock issuable upon the conversion of the Series B Preferred Stock is changed into the same or a different number of shares of any class or classes of stock, whether by recapitalization, reclassification or otherwise (other than by a Common Stock Event or a Business Combination covered by Sections 7(c)(i) or 7(c)(iv) hereof), then in any such event each holder of Series B Preferred Stock shall have the right thereafter to receive the kind and amount of stock and other securities and property receivable upon such recapitalization, reclassification or other change by holders of the number of shares of Common Stock into which such shares of Series B Preferred Stock could have been converted (but without regard to the limitations on conversion set forth in the third sentence of Section 7(b)(iii) above) immediately prior to such recapitalization, reclassification or change, all subject to further adjustment as provided herein or with respect to such other securities or property by the terms thereof.

(iv) Business Combinations. In case of any Business Combination or reclassification of Common Stock (other than a reclassification of Common Stock covered by Section 7(c)(iii) hereof), lawful provision shall be made as part of the terms of such Business Combination or reclassification whereby the holder of each share of Series B Preferred Stock then outstanding shall have the right to convert into the kind and amount of securities, cash and other property receivable upon the Business Combination or reclassification by a holder of the number of shares of Common Stock of the Corporation into which a share of Series B Preferred Stock would have been convertible at the conversion rate described under this Section 7 immediately prior to the Business Combination or reclassification (but without regard to the limitations on conversion set forth in the third sentence of Section 7(b)(iii) above).

(d) Anti-Dilution Protection.

(i) No Adjustment of Conversion Price. No adjustment in the number of shares of Common Stock into which the shares of any Series B Preferred Stock is convertible shall be made with respect to such series, by adjustment in the applicable Conversion Price thereof, or by reason of issuance or deemed issuance of Additional Shares of Common Stock (as defined in Section 7(d)(iii)(A)): (A) unless the Effective Price of such Additional Shares (determined pursuant to Section 7(d)(iii)(E)) is less than the applicable Conversion Price in effect on the date of, and immediately prior to, the issue of such Additional Shares of Common Stock, or (B) if, prior to such issuance, the Corporation receives written consent from the holders of at least a majority of the then outstanding shares of such series agreeing that no such adjustment shall be made as the result of the issuance of Additional Shares of Common Stock.

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(ii) Adjustment Formula. If at any time or from time to time after the date of the original issuance of shares of Series B Preferred Stock, the Corporation issues or sells, or is deemed by the provisions of this Section 7(d) to have issued or sold, Additional Shares of Common Stock, other than a Common Stock Event as provided in Section 7(c)(i), a dividend or distribution as provided in Section 7(c)(ii), a recapitalization, reclassification or other change as provided in Section 7(c)(iii), or a reorganization, merger or consolidation as provided in Section 7(c)(iv), for an Effective Price that is less than the Conversion Price in effect immediately prior to such issue or sale (or deemed issue or sale), then, and in each such case, the Conversion Price shall be reduced, as of the close of business on the date of such issue or sale to the price obtained by multiplying such Conversion Price by a fraction:

(A) The numerator of which shall be the sum of (1) the number of Common Stock Equivalents Outstanding (as defined in Section 7(d)(iii)(C)) immediately prior to such issue or sale of Additional Shares of Common Stock plus (2) the quotient obtained by dividing: (x) the Aggregate Consideration Received (as defined in Section 7(d)(iii)(B)) by the Corporation for the total number of Additional Shares of Common Stock so issued or sold (or deemed so issued and sold) by (y) the Conversion Price in effect immediately prior to such issue or sale; and

(B) The denominator of which shall be the sum of (1) the number of Common Stock Equivalents Outstanding immediately prior to such issue or sale plus (2) the number of Additional Shares of Common Stock so issued or sold (or deemed so issued and sold).

(iii) Certain Definitions. For the purpose of making any adjustment required under this Section 7(d):

(A) “**Additional Shares of Common Stock**” shall mean all shares of Common Stock issued by the Corporation, whether or not subsequently reacquired or retired by the Corporation, other than:

(1) shares of Common Stock issued or issuable upon conversion of the outstanding shares of the Series B Preferred Stock or as a dividend or distribution on the Series B Preferred Stock;

(2) any shares of Common Stock, or Rights or Options (as defined in clause (F) granted or issued hereafter to employees, officers or directors of, or contractors, consultants or advisers to, the Corporation or any Subsidiary pursuant to incentive agreements, stock purchase or stock option plans, stock bonuses or awards, warrants, contracts or other arrangements that are approved by the Board;

(3) any shares of the Corporation’s Common Stock or Preferred Stock, or Rights or Options issued, or issuable to parties that are (i) strategic partners investing in connection with a commercial relationship with the Corporation or (ii) providing the Corporation with equipment leases, real property leases, loans, credit lines, guaranties of indebtedness, cash price reductions or similar transactions, under arrangements, in each case, approved by the Board;

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(4) shares of Common Stock or Preferred Stock issued pursuant to the acquisition of another corporation or entity by the Corporation by consolidation, merger, purchase of all or substantially all of the assets, or other reorganization in which the Corporation acquires, in a single transaction or series of related transactions, all or substantially all of the assets of such other corporation or entity or fifty percent (50%) or more of the voting power of such other corporation or entity or fifty percent (50%) or more of the equity ownership of such other entity;

(5) shares of Common Stock or Preferred Stock issuable upon exercise of any options, warrants or rights to purchase any securities of the Corporation outstanding as of the date of filing of this Certificate of Designations, Preferences and Rights and any securities issuable upon the conversion thereof;

(6) any shares of Common Stock or Preferred Stock, or Rights or Options, issued or issuable hereafter that are (i) approved by the Board, and (ii) approved by the vote or written consent of the holders of a majority of the Series B Preferred Stock, as being excluded from the definition of "Additional Shares of Common Stock" under this Section 7(d)(iii)(A).

(B) The "**Aggregate Consideration Received**" by the Corporation for any issue or sale, or deemed issue or sale, of securities shall (1) to the extent it consists of cash, be computed at the gross amount of cash received by the Corporation before deduction of any underwriting or similar commissions, compensation or concessions paid or allowed by the Corporation in connection with such issue or sale and without deduction of any expenses payable by the Corporation; (2) to the extent it consists of property other than cash, be computed at the fair value of that property as determined in good faith by the Board; and (3) if Additional Shares of Common Stock, Convertible Securities or Rights or Options to purchase either Additional Shares of Common Stock or Convertible Securities are issued or sold together with other stock or securities or other assets of the Corporation for a consideration which covers both, be computed as the portion of the consideration so received that may be reasonably determined in good faith by the Board to be allocable to such Additional Shares of Common Stock, Convertible Securities or Rights or Options.

(C) The "**Common Stock Equivalents Outstanding**" shall mean the number of shares of Common Stock that is equal to the sum of (1) all shares of Common Stock of the Corporation that are issued and outstanding at the time in question, plus (2) all shares of Common Stock of the Corporation issuable upon conversion of all shares of Preferred Stock or other Convertible Securities that are issued and outstanding and may be converted at the time in question, plus (3) all shares of Common Stock of the Corporation that are issuable upon the exercise of Rights or Options that are outstanding and may be exercised at the time in question assuming the full conversion or exchange into Common Stock of all such Rights or Options that are Rights or Options to purchase or acquire Convertible Securities.

(D) The "**Convertible Securities**" shall mean stock or other securities convertible into or exchangeable for shares of Common Stock.

(E) The "**Effective Price**" of Additional Shares of Common Stock shall mean the quotient determined by dividing the total number of Additional Shares of Common Stock issued or sold, or deemed to have been issued or sold under this Section 7(d), by

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the Corporation into the Aggregate Consideration Received, or deemed to have been received, by the Corporation under this Section 7(d), for the issue of such Additional Shares of Common Stock; and

(F) The “**Rights or Options**” shall mean warrants, options or other rights to purchase or acquire shares of Common Stock or Convertible Securities.

(iv) Deemed Issuances. For the purpose of making any adjustment to the Conversion Price of Series B Preferred Stock required under this Section 7(d), if the Corporation issues or sells any Rights or Options or Convertible Securities and if the Effective Price of the shares of Common Stock issuable upon exercise of such Rights or Options or the conversion or exchange of Convertible Securities (computed without reference to any additional or similar protective or antidilution clauses) is less than the Conversion Price then in effect for Series B Preferred Stock, then the Corporation shall be deemed to have issued, at the time of the issuance of such Rights, Options or Convertible Securities, that number of Additional Shares of Common Stock that is equal to the maximum number of shares of Common Stock issuable upon exercise or conversion of such Rights, Options or Convertible Securities upon their issuance and to have received, as the Aggregate Consideration Received for the issuance of such shares, an amount equal to the total amount of the consideration, if any, received by the Corporation for the issuance of such Rights or Options or Convertible Securities, plus, in the case of such Rights or Options, the minimum amounts of consideration, if any, payable to the Corporation upon the exercise in full of such Rights or Options, plus, in the case of Convertible Securities, the minimum amounts of consideration, if any, payable to the Corporation (other than by cancellation of liabilities or obligations evidenced by such Convertible Securities) upon the conversion or exchange thereof; provided that:

(A) if the minimum amounts of such consideration cannot be ascertained, but are a function of antidilution or similar protective clauses, then the Corporation shall be deemed to have received the minimum amounts of consideration without reference to such clauses;

(B) if the minimum amount of consideration payable to the Corporation upon the exercise of Rights or Options or the conversion or exchange of Convertible Securities is reduced over time or upon the occurrence or non-occurrence of specified events other than by reason of antidilution or similar protective adjustments, then the Effective Price shall be recalculated upon the occurrence or non-occurrence of such specified events using the figure to which such minimum amount of consideration is reduced; and

(C) if the minimum amount of consideration payable to the Corporation upon the exercise of such Rights or Options or the conversion or exchange of Convertible Securities is subsequently increased, then the Effective Price shall again be recalculated using the increased minimum amount of consideration payable to the Corporation upon the exercise of such Rights or Options or the conversion or exchange of such Convertible Securities.

No further adjustment of the Conversion Price, adjusted upon the issuance of such Rights or Options or Convertible Securities, shall be made as a result of the actual issuance of shares of Common Stock on the exercise of any such Rights or Options or the conversion or exchange of any such Convertible Securities. If any such Rights or Options or the conversion rights represented by

any such Convertible Securities shall expire without having been fully exercised, then the Conversion Price as adjusted upon the issuance of such Rights or Options or Convertible Securities shall be readjusted to the Conversion Price which would have been in effect had an adjustment been made on the basis that the only shares of Common Stock so issued were the shares of Common Stock, if any, that were actually issued or sold on the exercise of such Rights or Options or rights of conversion or exchange of such Convertible Securities, and such shares of Common Stock, if any, were issued or sold for the consideration actually received by the Corporation upon such exercise, plus the consideration, if any, actually received by the Corporation for the granting of all such Rights or Options, whether or not exercised, plus the consideration received for issuing or selling all such Convertible Securities actually converted or exchanged, plus the consideration, if any, actually received by the Corporation (other than by cancellation of liabilities or obligations evidenced by such Convertible Securities) on the conversion or exchange of such Convertible Securities, provided that such readjustment shall not apply to prior conversions of Series B Preferred Stock.

(e) Successive Adjustments. Successive adjustments in the Conversion Price shall be made, without duplication, whenever any event specified in Sections 7(c)(i), 7(c)(ii), 7(c)(iii), 7(c)(iv) or 7(d) hereof shall occur.

(f) Rounding of Calculations; Minimum Adjustments. All calculations under Section 7(c) or Section 7(d) shall be made to the nearest one-tenth (1/10th) of a cent. No adjustment in the Conversion Price is required if the amount of such adjustment would be less than \$0.01; provided, however, that any adjustments which by reason of this Section 7(f) are not required to be made will be carried forward and given effect in any subsequent adjustment.

(g) Adjustment for Unspecified Actions. If the Corporation takes any action affecting the Common Stock, other than an action described in Section 7(c) or Section 7(d), which in the opinion of the Board would materially adversely affect the conversion rights of the holders of shares of Series B Preferred Stock, the Conversion Price may be adjusted, to the extent permitted by law, in such manner and at such time, as the Board may determine in good faith to be equitable in the circumstances.

(h) Statement Regarding Adjustments. Whenever the Conversion Price shall be adjusted as provided in Section 7(c) or Section 7(d), the Corporation shall forthwith file, at the principal office of the Corporation, a statement showing in reasonable detail the facts requiring such adjustment and the Conversion Price that shall be in effect after such adjustment and the Corporation shall also cause a copy of such statement to be sent by mail, first class postage prepaid, to each holder of shares of Series B Preferred Stock at the address appearing in the Corporation's records.

(i) Notices. In the event that the Corporation shall give notice or make a public announcement to the holders of Common Stock of any action of the type described in Section 7(c) or Section 7(d) or in Section 4 or Section 5 hereof, the Corporation shall, at the time of such notice or announcement, and in the case of any action which would require the fixing of a record date, at least ten (10) days prior to such record date, give notice to the holders of shares of Series B Preferred Stock, in the manner set forth in Section 7(h), which notice shall specify the record date, if any, with respect to any such action and the approximate date on which such action is to take place. Such notice shall also set forth the facts with respect thereto as shall be reasonably necessary to indicate the effect on the Conversion Price and the number, kind or class of shares or other

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securities or property which shall be deliverable upon conversion of the Series B Preferred Stock. All notices to the Corporation permitted hereunder shall be personally delivered or sent by first class mail, postage prepaid, addressed to its principal office located at 124 Floyd Smith Drive, Suite 300, Charlotte, North Carolina 28262, or to such other address at which its principal office is located and as to which notice thereof is similarly given to the holders of the Series B Preferred Stock at their addresses appearing on the books of the Corporation.

8. AMENDMENT. This Certificate of Designations, Preferences and Rights may only be amended with the prior written consent of at least a majority of the then outstanding shares of Series B Preferred Stock.

*[Signature Page Follows]*

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IN WITNESS WHEREOF, the undersigned has duly executed this Certificate on this 21st day of September, 2012.

NEXXUS LIGHTING, INC.

By: /s/ Michael A. Bauer

Name: Michael A. Bauer, President

*[Remainder of Page Intentionally Left Blank]*

**INDEMNIFICATION AGREEMENT**

THIS INDEMNIFICATION AGREEMENT (the "Agreement") effective as of the       day of       , 2012, by and between Revolution Lighting Technologies, Inc., a Delaware corporation (the "Company") and       , a director and/or officer of the Company (the "Indemnatee").

**WITNESSETH:**

WHEREAS, damages sought against directors and officers in shareholder or similar litigation may be substantial, and the costs of defending such actions and of judgments in favor of plaintiffs or of settlement therewith may be prohibitive for individual directors and officers, without regard to the merits of a particular action and without regard to the culpability of any named director or officer to the detriment of the corporation; and

WHEREAS, the issues in controversy in such litigation usually relate to the knowledge, motives and intent of the director or officer, who may be the only individual with firsthand knowledge of essential facts or exculpatory circumstances who is qualified to testify in his defense regarding matters of such a subjective nature, and the long period of time which may elapse before final disposition of such litigation may impose undue hardship and burden on a director or officer or his estate in launching and maintaining a proper and adequate defense of himself or his estate against claims for damages; and

WHEREAS, the Company is organized under the General Corporation Law of the State of Delaware (the "DGCL") and Section 145 of the DGCL empowers corporations to indemnify and advance expenses of litigation to an individual serving as a director, officer, employee or agent of a corporation and to individuals serving at the request of the corporation as a director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust, other enterprise, and further provides that the indemnification and advancement of expenses set forth in the DGCL are not "exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office"; and

WHEREAS, the Certificate of Incorporation of the Company, as amended or amended and restated from time to time (the "Certificate of Incorporation") and the By-Laws of the Company, as amended or amended and restated from time to time, provide that the Company shall indemnify and hold harmless directors and officers to the fullest extent permitted by DGCL; and

WHEREAS, the Board of Directors of the Company has concluded that it is advisable and in the best interests of the Company to enter into an agreement to indemnify in a reasonable and adequate manner the Indemnatee and to assume for itself liability for expenses and damages in connection with claims lodged against the Indemnatee for the Indemnatee's decisions and actions as a director and/or officer of the Company or any of its Subsidiaries.



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NOW, THEREFORE, in consideration of the foregoing, and of other good and valuable consideration, the receipt and sufficiency of which is acknowledged by each of the parties hereto, the parties agree as follows:

## I. DEFINITIONS

For purposes of this Agreement, the following terms shall have the meanings set forth below:

A. “**Board**” shall mean the Board of Directors of the Company.

B. “**Corporate Status**” shall mean: (i) the status of an individual who is or was a director or officer of the Company or any of its Subsidiaries, or a member of any committee of the Board; and (ii) the status of an individual who, while a director or officer of the Company, is or was serving at the request of the Company as a director, officer, trustee, employee or agent of another corporation, partnership, joint venture, trust or other enterprise or employee benefit plan.

C. “**DGCL**” shall mean the General Corporation Law of the State of Delaware, 8 Delaware Code, Section 101 *et seq.*

D. “**Disinterested Director**” shall mean a director of the Company who neither is nor was a party to the Proceeding with respect to which indemnification is being sought by the Indemnatee.

E. “**Expenses**” shall mean expenses of Proceedings including, without limitation, all attorneys’ fees, retainers, court costs, appeal bonds, transcript costs, fees of experts, investigation fees and expenses, accounting and witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees and all other disbursements or expenses of the types customarily incurred in connection with prosecuting, defending, preparing to prosecute or defend, being or preparing to be a witness in or investigating a Proceeding.

F. “**Good Faith Act or Omission**” shall mean an act or omission of the Indemnatee in good faith and in a manner reasonably believed by the Indemnatee to be in or not opposed to the best interests of the Company or the Subsidiaries and, in the case of any criminal action or Proceeding, one as to which the Indemnatee had no reasonable cause to believe his or her conduct was unlawful.

G. “**Independent Counsel**” means a law firm, or a partner or member of a law firm, that is experienced in matters of corporation law and neither presently is, nor in the past five years has been, retained to represent (i) the Company or the Indemnatee in any matter material to either such party (other than as Independent Counsel with respect to matters concerning the Indemnatee under this Agreement, or other indemnitees under similar indemnification agreements), or (ii) any other party to the Proceeding giving rise to a claim for indemnification hereunder. Notwithstanding the foregoing, the term “**Independent Counsel**” shall not include any person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or Indemnatee in an action to determine the Indemnatee’s rights under this Agreement.

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H. **“Liabilities”** shall mean liabilities of any type whatsoever, including, without limitation, any judgments, fines, excise taxes and penalties under the Employee Retirement Income Security Act of 1974, as amended, penalties and amounts paid in settlement (including all interest, assessments and other charges paid or payable in connection with or with respect to such judgments, fines, penalties or amounts paid in settlement) in connection with the investigation, defense, settlement or appeal of any Proceeding or any claim, issue or matter therein.

I. **“Person”** shall mean any natural person or individual, or any artificial person, including any corporation, association, unincorporated organization, partnership, joint venture, firm, company, business, trust, business trust, limited liability company, government, public body or authority, governmental agency or department and any other entity.

J. **“Proceeding”** shall mean any threatened, pending or completed claim, demand, inquiry, investigation, action, suit, arbitration, alternate dispute resolution mechanism, administrative hearing or any other actual, threatened or completed proceeding whether civil, criminal, administrative or investigative, or any appeal therefrom, whether formal or informal, or whether brought by or in the right of the Company, whether brought by a governmental body, agency or representative or by any other Person.

K. **“Subsidiary”** shall mean any corporation, limited liability company, partnership, business trust or other entity of which the Company, directly or indirectly, owns or controls at least fifty percent (50%) of the voting securities or economic interests.

L. **“Undertakings”** shall have the meaning ascribed to it in Article V herein.

M. **“Voting Securities”** shall mean any securities of the Company that are entitled to vote generally in the election of directors.

## **II. CONTINUATION OF INDEMNITY**

All agreements and obligations of the Company contained herein shall continue during the period Indemnitee is a director or officer of the Company and shall continue thereafter so long as Indemnitee may be subject to any possible claim or threatened, pending or completed action, suit or proceeding, whether civil, criminal, arbitrational, administrative or investigative, by reason of the fact that Indemnitee was serving in the capacity referred to herein and until the final termination of all Proceedings (including possible Proceedings) with respect to which the Indemnitee is granted rights of indemnification or advancement of Expenses hereunder and of any Proceeding commenced by the Indemnitee regarding the interpretation or enforcement of this Agreement.

## **III. SERVICE BY INDEMNITEE, NOTICE OF PROCEEDINGS, DEFENSE OF CLAIMS**

A. **Notice of Proceedings.** The Indemnitee agrees to notify the Company promptly in writing upon being served with any summons, citation, subpoena, complaint, indictment, information or other document relating to any Proceeding or matter which may be subject to indemnification or advancement of Expenses covered hereunder. However, the Indemnitee's

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failure to so notify the Company shall not relieve the Company from any liability it may have to the Indemnatee under this Agreement, except to the extent that the Indemnatee's failure to so notify the Company materially prejudices the Company with respect to said Proceeding or matter.

**B. Defense of Claims.**

1. If, at the time of the receipt by the Company of a notice of Proceeding pursuant to Section III.A hereof, the Company has directors' and officers' or similar liability insurance in effect, the Company shall give prompt notice of the commencement of the Proceeding to the insurers in accordance with the procedures set forth in the applicable policies. The Company shall thereafter take all commercially-reasonable action to cause such insurers to pay, on behalf of the Indemnatee, all amounts payable as a result of such Proceeding in accordance with the terms of such policies.

2. The Company shall be entitled to participate in the Proceeding at its own expense. The Indemnatee agrees to consult with the Company and to consider in good faith the advisability and appropriateness of joint representation in the event that either the Company or other indemnitees in addition to the Indemnatee require representation in connection with any Proceeding.

3. The Indemnatee shall give the Company such information and cooperation in connection with the Proceeding as may be reasonably appropriate.

4. The Company shall not settle any Proceeding (or any part thereof) without the Indemnatee's prior written consent, which shall not be unreasonably withheld. The Indemnatee shall not enter into any settlement in connection with a Proceeding (or any part thereof) without ten (10) days prior written notice to the Company.

**C. Addressing Liens, Attachments, Etc.** If by reason of any Proceeding as to which the Indemnatee is entitled (or is presumed to be entitled) to indemnification under this Agreement, a lien, attachment, garnishment or execution is placed upon any of the property or assets of the Indemnatee, the Company shall promptly furnish a reasonably satisfactory indemnity bond to obtain the prompt release of such lien, attachment, garnishment or execution.

**IV. INDEMNIFICATION**

**A. In General.** Upon the terms and subject to the conditions set forth in this Agreement, the Company shall hold harmless and indemnify the Indemnatee against any and all Liabilities actually incurred by or for him or her in connection with any Proceeding (whether the Indemnatee is or becomes a party, a witness or is otherwise a participant in any role) to the fullest extent permitted by law, as the same exists or may hereafter be amended or interpreted (but in the case of any such amendment or interpretation, only to the extent that such amendment or interpretation permits the Company to provide broader indemnification rights than were permitted prior thereto). The parties hereto intend that this Agreement shall provide for indemnification in excess of that expressly permitted by statute, including, without limitation, any indemnification provided by the Company's Certificate of Incorporation, its Bylaws, vote of

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its shareholders or Disinterested Directors, or applicable law. For all matters for which the Indemnitee is entitled to indemnification under this Article IV, the Indemnitee shall be entitled to advancement of Expenses in accordance with Article V hereof.

**B. Proceeding Other Than a Proceeding by or in the Right of the Company.** If the Indemnitee, by reason of his or her Corporate Status or alleged action or inaction in such capacity, was or is a party or is threatened to be made a party to any Proceeding (whether the Indemnitee is or becomes a party, a witness or is otherwise a participant in any role) (other than a Proceeding by or in the right of the Company or any Subsidiary), the Company shall, subject to the limitations set forth in Section IV.F. below, hold harmless and indemnify the Indemnitee against any and all Expenses and Liabilities actually and reasonably incurred by or for the Indemnitee in connection with the Proceeding, unless the act(s) or omission(s) of the Indemnitee giving rise thereto were not Good Faith Act(s) or Omission(s).

**C. Proceedings by or in the Right of the Company.** If the Indemnitee, by reason of his or her Corporate Status or alleged action or inaction in such capacity, was or is a party or is threatened to be made a party to any Proceeding (whether the Indemnitee is or becomes a party, a witness or otherwise is a participant in any role) by or in the right of the Company or any Subsidiary to procure a judgment in its favor, the Company shall, subject to the limitations set forth in Section IV.F. below, hold harmless and indemnify the Indemnitee against any and all Expenses actually incurred by or for the Indemnitee in connection with the investigation, defense, settlement or appeal of such Proceeding, unless the act(s) or omission(s) of the Indemnitee giving rise to the Proceeding were not Good Faith Act(s) or Omission(s). However, no indemnification under this Section IV.C. shall be made with respect to any claim, issue or matter as to which the Indemnitee shall have been finally adjudged to be liable to the Company or any Subsidiary, unless a court of appropriate jurisdiction (including, but not limited to, the court in which such Proceeding was brought) determines upon application that, despite the adjudication of liability but in view of all the circumstances of the case, regardless of whether the Indemnitee's act(s) or omission(s) were found to be a Good Faith Act(s) or Omission(s), the Indemnitee is fairly and reasonably entitled to indemnification for such Expenses, which such court shall deem proper.

**D. Indemnification of a Party Who is Wholly or Partly Successful.** Notwithstanding any other provision of this Agreement, to the extent that the Indemnitee is, by reason of the Indemnitee's Corporate Status, a party to and is successful in, on the merits or otherwise, any Proceeding, the Indemnitee shall be indemnified by the Company to the maximum set forth herein against all Expenses and Liabilities actually incurred by or for him or her in connection therewith. If the Indemnitee is not wholly successful in such Proceeding but is successful, on the merits or otherwise, as to one or more but less than all claims, issues or matters in such Proceeding, the Company shall hold harmless and indemnify the Indemnitee to the maximum extent set forth herein against all Expenses and Liabilities actually and reasonably incurred by or for the Indemnitee in connection with each successfully resolved claim, issue or matter in such Proceeding. Resolution of a claim, issue or matter by dismissal, with or without prejudice, but except as provided in Section IV.F. hereof, shall be deemed a successful result as to such claim, issue or matter so long as there has been no finding (either adjudicated or pursuant to Article VI hereof) that the act(s) or omission(s) of the Indemnitee giving rise thereto were not a Good Faith Act(s) or Omission(s).

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**E. Indemnification for Expenses as Witness.** Notwithstanding any other provision of this Agreement, to the extent that the Indemnatee, by reason of the Indemnatee's Corporate Status, has prepared to serve or has served as a witness in any Proceeding, or has participated in discovery proceedings or other trial preparation, the Indemnatee shall be held harmless and indemnified against all Expenses actually and reasonably incurred by or for him or her in connection therewith.

**F. Specific Limitations on Indemnification.** In addition to the other limitations set forth in this Article IV and notwithstanding anything in this Agreement to the contrary, the Company shall not be obligated under this Agreement to make any payment to the Indemnatee for indemnification with respect to any Proceeding:

1. To the extent that payment is actually made to the Indemnatee under any insurance policy or is made on behalf of the Indemnatee by or on behalf of the Company otherwise than pursuant to this Agreement.

2. For Liabilities in connection with Proceedings settled without the consent of the Company, which consent shall not have been unreasonably withheld.

3. For any claim made against Indemnatee (i) for an accounting of profits made from the purchase and sale (or sale and purchase) by Indemnatee of securities of the Company pursuant to Section 16(b) of the Securities Exchange Act of 1934, as amended ("Exchange Act"), or similar provisions of state statutory law or common law or (ii) for reimbursement to the Company of any bonus or other incentive-based or equity-based compensation or of any profits realized by Indemnatee from the sale of securities of the Company, in each case as required under the Exchange Act if Indemnatee is held liable therefor or in respect of claw-back provisions promulgated under the rules and regulations of the Securities and Exchange Commission pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act.

4. Except for any Proceeding initiated by Indemnatee to enforce its rights under this Agreement as contemplated by Section VI.G., any Proceeding (or part thereof) initiated by Indemnatee (including any Proceeding initiated by Indemnatee against the Company or its directors, officers, employees, agents or other indemnitees) unless (i) the Board authorized the action, suit or other proceeding (or part thereof) prior to its initiation or (ii) the Company provides the indemnification, in its sole discretion, pursuant to the powers vested in the Company under applicable law.

5. If prohibited by applicable law.

## **V. ADVANCEMENT OF EXPENSES**

Notwithstanding any provision to the contrary in Article VI hereof, the Company shall advance to the Indemnatee all Expenses which, by reason of the Indemnatee's Corporate Status, were incurred by or for the Indemnatee in connection with any Proceeding for which the Indemnatee is entitled to indemnification pursuant to Article IV hereof, in advance of the final disposition of such Proceeding, provided that all of the following are satisfied: (i) the Indemnatee was made a party to the proceeding by reason of Indemnatee's Corporate Status and (ii) the

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Indemnatee provides the Company with a written agreement (the “Undertaking”) to repay the amount paid or reimbursed by the Company, if it is ultimately determined that the Indemnatee did not comply with the requisite standard of conduct. The Indemnatee shall be required to execute and submit the Undertaking to repay Expenses Advanced in the form of Exhibit A attached hereto or in such form as may be required under applicable law as in effect at the time of execution thereof. The Company shall advance such expenses within five (5) business days after its receipt of the Undertaking. The Indemnatee hereby agrees to repay any Expenses advanced hereunder if it is ultimately determined that the Indemnatee is not entitled to be indemnified against such Expenses. Any advances and the undertaking to repay pursuant to this Article V shall be unsecured and no interest shall be charged thereon.

## **VI. PROCEDURE FOR PAYMENT OF LIABILITIES; DETERMINATION OF RIGHT TO INDEMNIFICATION**

**A. Procedure for Payment.** To obtain indemnification for Liabilities under this Agreement, the Indemnatee shall submit to the Company a written request for payment, specifying in reasonable detail the factors known to the Indemnatee giving rise to such claim for indemnification, the positions and allegations of the parties to any related Proceeding and the factual bases therefore, the amount or an estimate of the amount of Liabilities and Expenses reasonably expected to arise therefrom (or a statement to the effect that such Liabilities and Expenses cannot be reasonably estimated). The Indemnatee also shall include with such request for payment such documentation as is reasonably available to the Indemnatee and reasonably necessary to determine whether and to what extent the Indemnatee is entitled to indemnification and payment hereunder, provided that in the case of invoices in connection with legal services, any references to legal work performed or to expenditure made that would cause Indemnatee to waive any privilege accorded by applicable law shall not be included with the invoice. A delay by the Indemnatee in providing such notice shall not relieve the Company from its obligations under this Agreement unless and then only to the extent that the Company is materially and adversely affected by the delay. The Secretary of the Company, or such other individual as shall be designated by the Board, shall promptly advise the Board in writing of such request for indemnification. Any indemnification payment due hereunder shall be paid by the Company no later than five (5) business days following the determination, pursuant to this Article VI, that such indemnification payment is proper hereunder.

**B. No Determination Necessary when the Indemnatee was Successful.** To the extent the Indemnatee has been successful, on the merits or otherwise, in defense of any Proceeding referred to in Sections IV.B. or IV.C. above or in the defense of any claim, issue or matter described therein, the Company shall indemnify the Indemnatee against Expenses actually and reasonably incurred by or for the Indemnatee in connection with the investigation, defense or appeal of such Proceeding.

**C. Determination of Good Faith Act or Omission.** In the event that Section VI.B. above is inapplicable, the Company shall also hold harmless and indemnify the Indemnatee unless the Company proves by clear and convincing evidence to Independent Counsel as provided for below that the act(s) or omission(s) of the Indemnatee giving rise to the Proceeding were not Good Faith Act(s) or Omission(s).

1. The determination of entitlement to indemnification is to be made by Independent Counsel selected by the Indemnitee, and the Indemnitee shall give written notice to the Company advising it of the identity of the Independent Counsel so selected. The Company may, within ten (10) days after such written notice of selection shall have been given, deliver to the Indemnitee a written objection to such selection; *provided, however*, that such objection may be asserted only on the ground that the Independent Counsel so selected does not meet the requirements of "Independent Counsel" as defined in Section I.G. of this Agreement, and the objection shall set forth with particularity the factual basis of such assertion. Absent a proper and timely objection, the person so selected shall act as Independent Counsel. If such written objection is so made and substantiated, the Independent Counsel so selected may not serve as Independent Counsel unless and until such objection is withdrawn or a court has determined that such objection is without merit. If, within twenty (20) days after the later of (i) submission by the Indemnitee of a written request for indemnification pursuant to Section VI.A. hereof and (ii) the final disposition of the Proceeding, the parties have not agreed upon an Independent Counsel, either the Company or the Indemnitee may petition a court of competent jurisdiction for resolution of any objection which shall have been made by the Company to the Indemnitee's selection of Independent Counsel and for the appointment as Independent Counsel of a person selected by the court or by such other person as the court shall designate, and the person with respect to whom all objections are so resolved or the person so appointed shall act as Independent Counsel hereof. Upon the due commencement of any judicial proceeding pursuant to Section VI.F. of this Agreement, the Independent Counsel shall be discharged and relieved of any further responsibility in such capacity (subject to the applicable standards of professional conduct then prevailing).

2. The Company agrees to pay the reasonable fees and expenses of any Independent Counsel and to fully indemnify such counsel against any and all Expenses, claims, liabilities and damages arising out of or relating to this Agreement or its engagement pursuant hereto.;

**D. Right to Appeal.** Notwithstanding a determination by Independent Counsel pursuant to Section VI.C. above that the Indemnitee is not entitled to indemnification with respect to a specific Proceeding, the Indemnitee shall have the right to apply to the court in which that Proceeding is or was pending, or to any other court of competent jurisdiction, for the purpose of enforcing the Indemnitee's right to indemnification pursuant to this Agreement. Such enforcement action shall consider the Indemnitee's entitlement to indemnification *de novo*, and the Indemnitee shall not be prejudiced by reason of a prior determination that the Indemnitee is not entitled to indemnification. The Company shall be precluded from asserting that the procedures and presumptions of this Agreement are not valid, binding and enforceable. The Company further agrees to stipulate in any such judicial proceeding that the Company is bound by all the provisions of this Agreement and is precluded from making any assertion to the contrary.

**E. Right to Seek Judicial Determination.** Notwithstanding any other provision of this Agreement to the contrary, at any time sixty (60) days after a request for indemnification has been made to the Company (or upon earlier receipt of written notice that a request for

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indemnification has been rejected) and before the third (3rd) anniversary of the making of such indemnification request, the Indemnitee may petition a court of competent jurisdiction, regarding whether the court has jurisdiction over or is the forum in which the Proceeding is pending, to determine whether the Indemnitee is entitled to indemnification hereunder, and such court shall have the exclusive authority to make such determination, unless and until the Indemnitee's action is dismissed or otherwise terminated before such determination is made. The court, as petitioned, shall make an independent determination of whether the Indemnitee is entitled to indemnification hereunder, without regard to any prior determination in any other forum.

**F. Expenses under this Agreement.** Notwithstanding any other provision in this Agreement to the contrary, the Company shall indemnify the Indemnitee against all Expenses incurred by the Indemnitee in connection with any hearing or proceeding under this Article VI involving the Indemnitee and against all Expenses incurred by the Indemnitee in connection with any other action between the Company and the Indemnitee involving the interpretation or enforcement of the rights of the Indemnitee under this Agreement, even if it is finally determined that the Indemnitee is not entitled to indemnification in whole or in part hereunder.

## **VII. PRESUMPTIONS AND EFFECT OF CERTAIN PROCEEDINGS**

**A. Burden of Proof.** In making a determination with respect to entitlement to indemnification hereunder, the Person or Persons making such determination shall presume that the Indemnitee is entitled to indemnification under this Agreement and the Company shall have the burden of proof of overcoming that presumption.

**B. Effect of Other Proceedings.** The termination of any Proceeding or any claim, issue or matter therein by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, create a presumption that the act(s) or omission(s) giving rise to the Proceeding were not Good Faith Act(s) or Omission(s).

**C. Reliance as Safe Harbor.** For the purposes of any determination of whether any act or omission of the Indemnitee was a Good Faith Act or Omission, each act of the Indemnitee shall be deemed to be a Good Faith Act or Omission if the Indemnitee's action is based on the records or books of accounts of the Company, including financial statements, and if the Indemnitee is a director, upon such information opinions, reports or statements presented to the Company by any of the Company's officers or employees or committees of the Board, or by any other Person as to matters the Indemnitee reasonably believes are within such other Person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Company. The provisions of this Section VII.C. shall not be exclusive or deemed to limit in any way the other circumstances in which the Indemnitee may be deemed to have met the applicable standard of conduct set forth in this Agreement or under applicable law.

**D. Actions of Others.** The knowledge and/or actions or failure to act of any director, officer, agent or employee of the Company shall not be imputed to the Indemnitee for the purposes of determining the right to indemnification under this Agreement.



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## VIII. INSURANCE

In the event that the Company maintains officers' and directors' or similar liability insurance to protect itself and any director or officer of the Company against any expense, liability or loss, such insurance shall cover the Indemnitee to at least the same degree as each other director and/or officer of the Company.

## IX. NON-EXCLUSIVITY, SUBROGATION AND MISCELLANEOUS

**A. Non-Exclusivity.** The rights of the Indemnitee hereunder shall not be deemed exclusive of any other rights to which the Indemnitee may at any time be entitled under any provision of law, the Certificate of Incorporation, the By-Laws of the Company, as the same may be in effect from time to time, any agreement, a vote of shareholders of the Company or a resolution of directors of the Company or otherwise; provided, however, that this Agreement shall supersede any prior indemnification agreement between the Company and the Indemnitee. To the extent that, during the term of this Agreement, the rights of the then-existing directors and officers of the Company are more favorable to such directors or officers than the rights currently provided to the Indemnitee under this Agreement, the Indemnitee shall be entitled to the full benefits of those more favorable rights.

No amendment, alteration, rescission or replacement of this Agreement or any provision hereof that would limit in any way the benefits and protections afforded to an Indemnitee by this Agreement shall be effective as to an Indemnitee with regards to any action or inaction undertaken by such Indemnitee in the Indemnitee's Corporate Status prior to such amendment, alteration, rescission or replacement.

To the extent that any change to applicable law (whether by statute or judicial decision) shall permit any broader indemnification by agreement than would be afforded under the provisions of this Agreement, it is the intent of the parties to this Agreement that the Indemnitee shall enjoy by this Agreement the broader rights and protection so afforded by such change.

The rights, duties and obligations of the Company and the Indemnitee under this Agreement do not limit, diminish or supersede the rights, duties and obligations of the Company and the Indemnitee with respect to the indemnification afforded to the Indemnitee under any liability insurance, the DGCL, or under the Bylaws or the Certificate of Incorporation of the Company. In addition, the Indemnitee's rights under this Agreement will not be limited or diminished in any respect by any amendment to the Bylaws or the Certificate of Incorporation of the Company.

**B. Subrogation.** In the event of any payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of the Indemnitee, who shall execute all required documents and take all action necessary to secure such rights, including execution of documents necessary to enable the Company to bring suit to enforce such rights.

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**C. Notices.** All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given: (i) if delivered by hand, by courier or by telegram and receipted for by the party to whom such notice or other communication was directed at the time indicated on such receipt; (ii) if by facsimile at the time shown on the confirmation of such facsimile transmission; or (iii) if by U.S. certified or registered mail, with postage prepaid, on the third business day after the date on which it is so mailed:

If to the Indemnitee, as shown with the Indemnitee's signature below.

If to the Company to:  
Revolution Lighting Technologies, Inc.  
124 Floyd Smith Drive, Suite 300  
Charlotte, N.C.  
Attention: Chief Executive Officer  
Facsimile No. (704) 405-0422

or to such other address as may have been furnished to the Indemnitee by the Company or to the Company by the Indemnitee, as the case may be.

**D. Governing Law; Venue.** The parties agree that this Agreement shall be governed by, construed and enforced in accordance with the internal laws of the State of Delaware, without application of the conflict of laws principles thereof. The parties to this Agreement agree (i) that jurisdiction and venue in any action brought pursuant to this Agreement shall be in any federal or state court situated in Mecklenburg County, North Carolina, (ii) that all claims in any such action may be decided in either such court, and (iii) to waive any objection on the grounds of *forum non conveniens* to any action commenced in the foregoing jurisdictions.

**E. Binding Effect; Assignment.** Any claim, right, title, benefit, remedy or interest of the Indemnitee in or under this Agreement is personal in nature and may not be sold, assigned or transferred, pledged or hypothecated, but the provisions of this Agreement shall survive the death, disability or incapacity of the Indemnitee or the termination of Indemnitee's services as a director and/or officer of the Company for the periods set forth in Article II and may inure to the benefit of the Indemnitee's heirs, executors, administrators and personal representatives. Except as otherwise provided in this Agreement, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their heirs, executors, administrators, successors, legal representatives and permitted assigns. The Company shall require any successor or assignee (whether direct or indirect, by purchase, merger, consolidation or otherwise) to all or substantially all of its the assets or business of the Company, by written agreement in form and substance reasonably satisfactory to the Indemnitee, expressly to assume and agree to be bound by and perform this Agreement in the same manner and to the same extent as the Company would be required to perform absent such succession or assignment.

**F. Waiver.** No termination, cancellation, modification, amendment, deletion, addition or other change in this Agreement or any provision hereof, or waiver of any right or remedy herein, shall be effective for any purpose unless specifically set forth in a writing signed by the party or parties to be bound thereby. The waiver of any right or remedy with respect to any occurrence on one occasion shall not be deemed a waiver of such right or remedy with respect to such occurrence on any other occasion. No delay on the part of any party in exercising any right or power under this Agreement shall operate as a waiver of any such right or power.

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**G. Entire Agreement.** This Agreement constitutes the entire agreement and understanding among the parties hereto in reference to the subject matter hereof; provided, however, that the parties acknowledge and agree that the Certificate of Incorporation and By-Laws of the Company contain provisions on the subject matter hereof and that this Agreement is not intended to, and does not, limit the rights or obligations of the parties hereto pursuant to such instruments.

**H. Titles.** The titles to the articles and sections of this Agreement are inserted for convenience only and should not be deemed a part hereof or affect the construction or interpretation of any provisions hereof.

**I. Invalidity of Provisions.** Every provision of this Agreement is severable, and the invalidity or unenforceability of any term or provision shall not effect the validity or enforceability of the remainder of this Agreement.

**J. Pronouns and Plurals.** Where applicable, any pronoun used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural and vice versa.

**K. Counterparts; Facsimile.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together constitute one agreement binding on all the parties hereto. This Agreement may be duly executed and delivered by facsimile or other electronic transmission.

**L. Construction.** Each party to this Agreement severally acknowledges and agrees that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party may not be utilized in the interpretation or construction of this Agreement.

**M. Non-contestability.** The Company represents, covenants and agrees that it will not initiate, and that it will use its best efforts to cause any of its affiliates not to initiate, any action, suit or proceeding challenging the validity or enforceability of this Agreement.

*[Signature Page Follows]*

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the day and year first above written.

REVOLUTION LIGHTING TECHNOLOGIES, INC.,  
a Delaware corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_, as INDEMNITEE  
Signature

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

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**EXHIBIT A**

**FORM OF UNDERTAKING TO REPAY EXPENSES ADVANCED**

The Board of Directors of Revolution Lighting Technologies, Inc.

Re: Undertaking to Repay Expenses Advanced

Ladies and Gentlemen:

The undertaking is being provided pursuant to that certain Indemnification Agreement dated the      day of      , 20      , by and between Revolution Lighting Technologies, Inc. and the undersigned Indemnitee (the “Indemnification Agreement”), pursuant to which I am entitled to advancement of expenses in connection with      [Description of Proceeding] (the “Proceeding”). Terms used herein and not otherwise defined shall have the meanings specified in the Indemnification Agreement.

I am subject to the Proceeding by reason of my Corporate Status or by reason of alleged actions or omissions by me in such capacity. During the period of time to which the Proceeding relates I was      [name of office(s) held] of Revolution Lighting Technologies, Inc. Pursuant to Article IV of the Indemnification Agreement, the Company is obligated to reimburse me for Expenses that are actually and reasonably incurred by or for me in connection with the Proceeding, provided that I execute and submit to the Company an Undertaking in which I undertake to repay any Expenses paid by the Company on my behalf, if it shall be ultimately determined that I am not entitled to be indemnified thereby against such Expenses

The letter shall constitute my undertaking to repay to the Company any Expenses paid by it on my behalf in connection with the Proceeding if it is ultimately determined that I am not entitled to be indemnified with respect to such Expenses as set forth above.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date