

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

FORM 10-Q

(Mark One)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended February 28, 2022

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ and _____

Commission file number 001-31968

APPLIED BLOCKCHAIN, INC.

(Exact name of registrant as specified in its charter)

Nevada

(State or other jurisdiction of
incorporation or organization)

3811 Turtle Creek, Blvd., Suite 2125, Dallas, TX

(Address of Principal Executive Offices)

95-4863690

(I.R.S. Employer
Identification No.)

75219

(Zip Code)

(214) 556-2465

Registrant's telephone number, including area code
(Former name, former address and former fiscal year, if changed since last report)

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value \$0.001 per share	APLD	Nasdaq Global Select Market

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports); and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input checked="" type="checkbox"/>	Smaller reporting company	<input checked="" type="checkbox"/>
		Emerging growth company	<input type="checkbox"/>

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes No

APPLICABLE ONLY TO CORPORATE ISSUERS:

As of May 12, 2022, 99,204,396 shares of Common Stock, \$0.001 par value, were outstanding .



APPLIED BLOCKCHAIN, INC. AND SUBSIDIARIES
Consolidated Financial Statements
Periods Ended February 28, 2022, and 2021

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Part I - Financial Information**Item 1. Financial Statements****APPLIED BLOCKCHAIN, INC. AND SUBSIDIARIES**

Consolidated Balance Sheets (Unaudited)

(In thousands, except number of shares and par value data)

	February 28, 2022	May 31, 2021
ASSETS		
Current Assets:		
Cash and cash equivalents	\$ 11,961	\$ 11,750
Accounts receivable	1,038	—
Prepaid expenses and other current assets	2,096	5
Current assets of discontinued operations	3,573	—
Total current assets	18,668	11,755
Right of use asset, net	1,207	—
Deposit on equipment	—	3,277
Property and equipment, net	43,619	20
TOTAL ASSETS	\$ 63,494	\$ 15,052
LIABILITIES, MEZZANINE EQUITY AND STOCKHOLDERS' EQUITY		
Current Liabilities:		
Accounts payable and accrued liabilities	\$ 13,038	\$ 248
Accrued dividends	—	116
Current portion of lease liability	211	—
Related party notes payable	—	2,135
Customer deposits	5,645	—
Deferred revenue	3,909	—
Other current liabilities	16	—
Total current liabilities	22,819	2,500
Deferred tax liability	274	—
Long-term portion of lease liability	1,009	—
Other Long Term Liabilities	50	—
Total liabilities	24,152	2,500
Commitments and contingencies (Note 12)		
Mezzanine equity:		
Series C, convertible redeemable preferred stock, \$.001 par value, 676,086 and 660,000 shares authorized, issued and outstanding, respectively	\$ 15,537	\$ 15,135
Series D, convertible redeemable preferred stock, \$.001 par value, 1,413,624 and 0 shares authorized, issued, and outstanding, respectively	32,414	—
Total mezzanine' equity	47,951	15,135
Shareholders' equity (deficit):		
Series A, convertible preferred stock, \$.001 par value, authorized 70,000 shares, 0 and 27,195 shares issued and outstanding, respectively	\$ —	\$ 3,370
Series B convertible preferred stock, \$.001 par value, authorized 50,000 shares, 0 and 17,087 shares issued and outstanding, respectively	—	1,849
Common stock, \$.001 par value, 166,666,666 shares authorized, 53,396,920 and 1,511,061 shares issued and outstanding	320	9
Additional paid in capital	43,657	13,874
Treasury stock, 36,300 shares, at cost	(62)	(62)
Accumulated deficit	(52,524)	(21,623)
Total shareholders' deficit	(8,609)	(2,583)
TOTAL LIABILITIES, MEZZANINE EQUITY AND SHAREHOLDERS' DEFICIT	\$ 63,494	\$ 15,052

See Accompanying Notes to the Financial Statements

APPLIED BLOCKCHAIN INC. AND SUBSIDIARIES
Consolidated Statements of Operations (Unaudited)
(In thousands, except per share data)

	Three Months Ended		Nine Months Ended	
	February 28, 2022	February 28, 2021	February 28, 2022	February 28, 2021
Revenues:				
Hosting revenue	\$ 1,026	\$ —	\$ 1,026	\$ —
Total revenue, net	\$ 1,026	\$ —	\$ 1,026	\$ —
Cost of revenues	\$ 2,073	\$ —	\$ 2,073	\$ —
Gross Profit	(1,047)	—	(1,047)	—
Costs and expenses:				
Selling, General and Administrative	1,356	—	3,234	—
Stock-based compensation for service agreement	—	—	12,337	—
Depreciation	14	—	14	—
Total costs and expenses	1,370	—	15,585	—
Operating loss	(2,417)	—	(16,632)	—
Other income (expense):				
Interest Expense	—	(77)	0	(223)
Gain on Extinguishment of Accounts Payable	80	—	405	—
Loss on Extinguishment of Debt	—	—	(1,342)	—
Income Tax Expenses	(60)	—	(274)	—
Total Other Income (Expense)	20	(77)	(1,211)	(223)
Net Loss from continuing Operations	(2,397)	(77)	(17,843)	(223)
Net Loss from discontinued Operations	(4,048)	—	(2,870)	—
Total Net Loss	\$ (6,445)	\$ (77)	\$ (20,713)	\$ (223)
Basic and diluted net loss per share:				
Continuing Operations	\$ (0.04)	\$ (0.05)	\$ (0.35)	\$ (0.15)
Discontinued Operations	\$ (0.08)	\$ —	\$ (0.06)	\$ —
Basic and diluted net loss per share	\$ (0.12)	\$ (0.05)	\$ (0.41)	\$ (0.15)
Basic and diluted weighted average number of shares outstanding	53,396,920	1,511,061	50,546,048	1,511,061

See Accompanying Notes to the Financial Statements

APPLIED BLOCKCHAIN INC. AND SUBSIDIARIES
Consolidated Statements of Changes in Stockholders' Deficit (Unaudited)
(In thousands, except per share data)

Three Months Ended February 28, 2022

	Series C Convertible Redeemable Preferred Stock		Series D Convertible Redeemable Preferred Stock		Total Mezzanine Equity	Series A Convertible Preferred Stock		Series B Convertible Preferred Stock		Common Stock		Additional Paid in Capital	Treasury Stock	Accumulated Deficit	Total Shareholders Deficit
	Shares	Amount	Shares	Amount	Amount	Shares	Amount	Shares	Amount	Shares	Amount				
Balance, November 30, 2021	660,000	15,135	1,380,000	31,574	46,709	—	—	—	—	53,396,920	320	43,657	(62)	(44,837)	(922)
Issuance of Preferred Stock	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Issuance Costs of Preferred Stock	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Preferred Stock Dividends Accrued	16,086	402	33,624	840	1,242	—	—	—	—	—	—	—	—	(1,242)	(1,242)
Net Income (Loss)	—	—	—	—	—	—	—	—	—	—	—	—	—	(6,445)	(6,445)
Balance, February 28, 2022	676,086	\$ 15,537	1,413,624	\$ 32,414	47,951	\$ —	\$ —	\$ —	\$ —	53,396,920	\$ 320	\$ 43,657	\$ (62)	\$ (52,524)	\$ (8,609)

Three Months Ended February 28, 2021

	Series C Convertible Redeemable Preferred Stock		Series D Convertible Redeemable Preferred Stock		Total Mezzanine Equity	Series A Convertible Preferred Stock		Series B Convertible Preferred Stock		Common Stock		Additional Paid in Capital	Treasury Stock	Accumulated Deficit	Total Shareholders Deficit
	Shares	Amount	Shares	Amount	Amount	Shares	Amount	Shares	Amount	Shares	Amount				
Balance, November 30, 2020	—	\$ —	—	\$ —	—	27,195	\$ 3,370	17,087	\$ 1,849	1,511,061	\$ 9	\$ 13,874	\$ (62)	(21,201)	(2,161)
Net Income (Loss)	—	—	—	—	—	—	—	—	—	—	—	—	—	(77)	(77)
Balance, February 28, 2021	—	\$ —	—	\$ —	—	27,195	\$ 3,370	17,087	\$ 1,849	1,511,061	\$ 9	\$ 13,874	\$ (62)	(21,278)	(2,238)

See Accompanying Notes to the Financial Statements

APPLIED BLOCKCHAIN INC. AND SUBSIDIARIES
Consolidated Statements of Changes in Stockholders' Deficit (Unaudited)
(In thousands, except per share data)

Nine Months Ended February 28, 2022

	Series C Convertible Redeemable Preferred Stock		Series D Convertible Redeemable Preferred Stock		Total Mezzanine Equity	Series A Convertible Preferred Stock		Series B Convertible Preferred Stock		Common Stock		Additional Paid in Capital	Treasury Stock	Accumulated Deficit	Total Shareholders Deficit
	Shares	Amount	Shares	Amount	Amount	Shares	Amount	Shares	Amount	Shares	Amount				
Balance, May 31, 2021	660,000	\$ 15,135	—	\$ —	\$ 15,135	27,195	\$ 3,370	17,087	\$ 1,849	1,511,061	\$ 9	\$ 13,874	\$ (62)	\$ (21,623)	\$ (2,583)
Extinguishment of Debt	—	—	—	—	—	—	—	—	—	5,083,828	31	3,446	—	—	3,477
Issuance of Dividends to Preferred Stock	—	—	—	—	—	60,822	6,082	29,772	2,979	—	—	—	—	(8,946)	115
Conversion of Preferred Stock	—	—	—	—	—	(88,017)	(9,452)	(46,859)	(4,828)	28,765,308	172	14,108	—	—	—
Service Agreement	—	—	—	—	—	—	—	—	—	18,036,723	108	12,229	—	—	12,337
Issuance of Preferred Stock	—	—	1,380,000	34,500	34,500	—	—	—	—	—	—	—	—	—	—
Issuance Costs of Preferred Stock	—	—	—	(2,926)	(2,926)	—	—	—	—	—	—	—	—	—	—
Preferred Stock Dividends Accrued	16,086	402	33,624	840	1,242	—	—	—	—	—	—	—	—	(1,242)	(1,242)
Net Income (Loss)	—	—	—	—	—	—	—	—	—	—	—	—	—	\$ (20,713)	\$ (20,713)
Balance, February 28, 2022	676,086	15,537	1,413,624	32,414	47,951	—	—	—	—	53,396,920	320	43,657	(62)	(52,524)	(8,609)

Nine Months Ended February 28, 2021

	Series C Convertible Redeemable Preferred Stock		Series D Convertible Redeemable Preferred Stock		Total Mezzanine Equity	Series A Convertible Preferred Stock		Series B Convertible Preferred Stock		Common Stock		Additional Paid in Capital	Treasury Stock	Accumulated Deficit	Total Shareholders Deficit
	Shares	Amount	Shares	Amount	Amount	Shares	Amount	Shares	Amount	Shares	Amount				
Balance, May 31, 2020	—	\$ —	—	\$ —	\$ —	27,195	\$ 3,370	17,087	\$ 1,849	1,511,061	\$ 9	\$ 13,874	\$ (62)	\$ (21,055)	\$ (2,015)
Net Income (Loss)	—	—	—	—	—	—	—	—	—	—	—	—	—	\$ (223)	(223)
Balance, February 28, 2021	—	\$ —	—	\$ —	\$ —	27,195	\$ 3,370	17,087	\$ 1,849	1,511,061	\$ 9	\$ 13,874	(62)	(21,278)	(2,238)

See Accompanying Notes to the Financial Statements

APPLIED BLOCKCHAIN INC. AND SUBSIDIARIES
Consolidated Statements of Cash Flows (Unaudited)
(In thousands of dollars)

	Nine Months Ended	
	February 28, 2022	February 28, 2021
CASH FLOW FROM OPERATING ACTIVITIES		
Net Loss attributable to Applied Blockchain, Inc.	\$ (20,713)	\$ (223)
Net Loss from discontinued operations	(2,870)	—
Net Loss from continuing operations	(17,843)	(223)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	14	—
Loss on Extinguishment of Debt	1,342	—
Gain on Extinguishment of Accounts Payable	(405)	—
Stock-Based Compensation for Service Agreement	12,337	—
Amortization of Right of Use Asset	136	—
Deferred Tax	274	—
Changes in Operating Assets and liabilities:		
Accounts receivable	(1,038)	—
Prepaid expenses and other current assets	(2,091)	—
Accounts payable and accrued liabilities	10,654	223
Payments of operating leases	(233)	—
Net cash provided by operating activities of continuing operations	3,147	—
Net cash provided by operating activities of discontinued operations	966	—
NET CASH PROVIDED BY OPERATING ACTIVITIES	4,113	—
CASH FLOW FROM INVESTING ACTIVITIES		
Purchases of property and equipment	(31,457)	—
Deposit on equipment	3,277	—
Payments for patents and trademarks	—	—
Net cash used in investing activities of continuing operations	(28,180)	—
Net cash used in investing activities of discontinued operations	(7,408)	—
NET CASH USED IN INVESTING ACTIVITIES	(35,588)	—
CASH FLOW FROM FINANCING ACTIVITIES		
Dividends Issued on preferred stock	—	—
Conversion of preferred stock to common stock	115	—
Issuance of common stock	—	—
Issuance of preferred stock	34,500	—
Repayment of finance leases	(2)	—
Issuance cost for preferred stock	(2,927)	—
Net cash provided by financing activities of continuing operations	31,686	—
Net cash provided by financing activities of discontinued operations	—	—
CASH FLOW PROVIDED BY FINANCING ACTIVITIES	31,686	—
NET DECREASE IN CASH AND CASH EQUIVALENTS	211	—
CASH AND CASH EQUIVALENTS, BEGINNING OF YEAR	11,750	—
CASH AND CASH EQUIVALENTS, END OF YEAR	\$ 11,961	\$ —
Less: cash and cash equivalents of discontinued operations	\$ —	\$ —
Cash and cash equivalents of continuing operations	\$ 11,961	\$ —
SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION		
Right-of-use asset obtained by lease obligation	\$ 1,207	\$ —
Fixed assets in accounts payable	\$ 12,156	\$ —

See Accompanying Notes to the Financial Statements

APPLIED BLOCKCHAIN INC. AND Subsidiaries

Notes to Consolidated Financial Statements

For the Three and Nine Month Periods Ended February 28, 2022

1. BUSINESS AND ORGANIZATION

Applied Blockchain, Inc. (the “Company,” “we,” “our” or “us”) operates co-hosting facilities that are designed to provide massive computing power in which our customers lease space and access to electricity primarily designed to mine cryptoassets. The Company has a colocation business model where customers place hardware they own into the Company’s facilities and the Company provides full operational and maintenance services for a fixed fee. The Company typically enters into long term fixed rate contracts with our customers.

In the third quarter of the fiscal year ended May 31, 2022, the Company approved plans to sell all crypto mining equipment and cease all crypto mining operations. The results of these operations, financial position, and cash flows have been presented as discontinued operations and the related assets and liabilities have been classified as held-for-sale. Refer to Note 14 – Discontinued Operations for additional information, including accounting policies, about the Company’s discontinued operations.

The Company was originally incorporated in Nevada in May 2001. Effective April 14, 2021, the Company’s name was changed to Applied Blockchain, Inc. from Applied Science Products, Inc. During the year ended May 31, 2021, the Company formed two subsidiaries, Shanghai Sparkly Ore Tech, Ltd and Applied Blockchain, Ltd. Shanghai Sparkly Ore Tech, Ltd is a wholly owned foreign entity in China. Applied Blockchain, Ltd., a Cayman limited company, managed the Company’s digital wallet. During the year ending May 31, 2022, the Company formed five new wholly-owned subsidiaries, APLD Hosting, LLC, Applied Talent Resources LLC, APLD-JTND Phase II, LLC, APLD-Rattlesnake Den I, LLC, and APLD-Rattlesnake Den II, LLC. In June 2021, we formed APLD Hosting, LLC, in Nevada. APLD Hosting is entering into agreements to own and operate our co-hosting facilities. On November 2, 2021, we formed Applied Talent Resources LLC in Nevada to employ and manage our employees, employee staffing among our entities and projects and employment related plans and policies. On November 8, 2021, we formed APLD-JTND Phase II, LLC and on November 15, 2021, we formed APLD-Rattlesnake Den I, LLC and APLD-Rattlesnake Den II, LLC, each of which is a Delaware limited liability company formed to build and operate a co-hosting facility.

In the third quarter of the fiscal year ending May 31, 2022, the Company entered into a joint venture agreement to form 1.21 Gigawatts, LLC (“the joint venture entity”), with Antpool Capital Asset Investment, L.P., an affiliate of Bitmain Technologies, bringing together the world’s leading provider of blockchain mining solutions and a leader in next generation datacenters used to host blockchain infrastructure. Applied Blockchain and Antpool intend to leverage their combined resources and expertise to initially build up to 1.5 Gigawatts (GW) of datacenter hosting capacity over the next 24 months. The Company has a majority interest in the joint venture entity and therefore the results of the joint venture entity will be consolidated in the Company’s financial statements.

Reverse Stock Split

The Company’s board of directors approved a reverse split of shares of the Company’s common stock on a one-for-six basis, which was effected on April 12, 2022 (the “Reverse Stock Split”). All references to Common Stock, options to purchase common stock, restricted stock units, share data, per share data and related information contained in the condensed consolidated financial statements have been retrospectively adjusted to reflect the effect of the Reverse Stock Split for all periods presented. No fractional shares of the Company’s common stock were issued in connection with the Reverse Stock Split. Any fractional share resulting from the Reverse Stock Split was rounded down to the nearest whole share and the affected holder received cash in lieu of such fraction share.

APPLIED BLOCKCHAIN INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

For the Three and Nine Month Periods Ended February 28, 2022

Initial Public Offering

On April 13, 2022, the Company announced its initial public offering of 8,000,000 shares of its common stock at \$5.00 per share. The shares began trading on The Nasdaq Global Select Market on April 13, 2022, under the ticker symbol “APLD.”

On April 18, 2022, the Company completed its initial public offering. In addition, the Company granted the underwriters a 30-day option to purchase up to an additional 1,200,000 shares of common stock at the public offering price, less underwriting discounts and commissions. The net proceeds received by the Company from the offering (after deducting underwriting discounts and commission and estimated offering expenses) were approximately \$36 million. The Company intends to use the net proceeds to lease or purchase additional property on which to build additional co-hosting facilities, to construct those facilities, to enter into additional energy service agreements for each additional site and for funding its working capital and general corporate purposes.

2. LIQUIDITY AND FINANCIAL CONDITION

As of February 28, 2022, the Company had approximate cash and cash equivalents of \$ 12.0 million and negative working capital of \$4.5 million. Historically the Company has incurred losses and has relied on equity financings to fund its operations. Based on analysis of cash flows, current net working capital, and expected operations revenue, the Company believes its current cash on hand is sufficient to meet its operating and capital requirement for at least next twelve months from the date these financial statements are issued.

3. BASIS OF PRESENTATION AND SIGNIFICANT ACCOUNTING POLICIES

Principles of Consolidation:

The consolidated financial statements are prepared in conformity with accounting principles generally accepted in the United States (“GAAP”). The accompanying consolidated financial statements of the Company include the accounts of the Company and its wholly owned and controlled subsidiaries. Consolidated subsidiaries results are included from the date the subsidiary was formed or acquired. Noncontrolling interests in consolidated subsidiaries in the consolidated financial statements represent non-controlling stockholders' proportionate share of the operations in such subsidiaries. Intercompany investments, balances and transactions have been eliminated in the consolidated financial statements. The Company’s consolidated operating subsidiaries include wholly-owned Shanghai Sparkly Ore Technology, Applied Blockchain, Ltd., APLD-JTND Phase II, LLC, APLD-Rattlesnake Den I LLC, APLD-Rattlesnake Den II LLC, APLD Hosting, LLC, Applied Talent Resources LLC, as well the Company’s majority interest in 1.21 Gigawatts, LLC.

Use of Estimates

The preparation of the consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the balance sheet and the reported amounts of revenue and expenses during the reporting periods. Actual results could differ significantly from those estimates. The most significant accounting estimates inherent in the preparation of the Company’s financial statements include estimates associated with asset valuations, and the valuation allowance associated with the Company’s deferred tax assets.

APPLIED BLOCKCHAIN INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

For the Three and Nine Month Periods Ended February 28, 2022

Revenue Recognition

The Company recognizes revenue in accordance with ASC 606, Revenue from Contracts with Customers. The core principle of the revenue standard is that a company should recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the company expects to be entitled to in exchange for those goods or services. The following five steps are applied to achieve that core principle:

- Step 1: Identify the contract, or contracts, with the customer;
- Step 2: Identify the performance obligations in the contract;
- Step 3: Determine the transaction price;
- Step 4: Allocate the transaction price to the performance obligations in the contract; and
- Step 5: Recognize revenue when, or as, the Company satisfies a performance obligation.

To identify the performance obligations in a contract with a customer, the Company must assess the promised goods or services in the contract and identify each promised good or service that is distinct. A performance obligation meets ASC 606's definition of a "distinct" good or service (or bundle of goods or services) if both of the following criteria are met: The customer can benefit from the good or service either on its own or together with other resources that are readily available to the customer (i.e., the good or service is capable of being distinct), and the entity's promise to transfer the good or service to the customer is separately identifiable from other promises in the contract (i.e., the promise to transfer the good or service is distinct within the context of the contract).

If a good or service is not distinct, the good or service is combined with other promised goods or services until a bundle of goods or services is identified that is distinct.

The transaction price is the amount of consideration to which an entity expects to be entitled in exchange for transferring promised goods or services to a customer. The consideration promised in a contract with a customer may include fixed amounts, variable amounts, or both. When determining the transaction price, an entity must consider the effects of all the following:

- Variable consideration;
- Constraining estimates of variable consideration;
- The existence of a significant financing component in the contract;
- Noncash consideration; and
- Consideration payable to a customer.

Variable consideration is included in the transaction price only to the extent that it is probable that a significant reversal in the amount of cumulative revenue recognized will not occur when the uncertainty associated with the variable consideration is subsequently resolved. The transaction price is allocated to each performance obligation on a relative standalone selling price basis. The transaction price allocated to each performance obligation is recognized when that performance obligation is satisfied, at a point in time or over time as appropriate.

APPLIED BLOCKCHAIN INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

For the Three and Nine Month Periods Ended February 28, 2022

The following table provides information about the activity of deferred revenue for monthly hosting services:

(in thousands)	Three Months Ended		Nine Months Ended	
	February 28, 2022	February 28, 2021	February 28, 2022	February 28, 2021
Balance, beginning of the period	\$ 526	\$ —	\$ —	\$ —
Invoiced hosting revenue	5,544	—	6,070	—
Recognized hosting revenue	1,026	—	1,026	—
Balance, end of the period	\$ 3,909	\$ —	\$ 3,909	\$ —

Cash and Cash Equivalents

The Company considers all highly liquid investments with an original maturity of three months or less at the date of acquisition to be cash equivalents.

Fair Value of Financial Instruments

The Company accounts for financial instruments under Financial Accounting Standards Board (“FASB”) ASC 820, Fair Value Measurements. This statement defines fair value, establishes a framework for measuring fair value in generally accepted accounting principles, and expands disclosures about fair value measurements. To increase consistency and comparability in fair value measurements, ASC 820 establishes a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value into three levels as follows:

Level 1 — Unadjusted quoted prices in active markets for identical assets or liabilities;

Level 2 — Inputs other than quoted prices that are observable for the asset or liability, either directly or indirectly; and

Level 3 — Inputs for the asset or liability that are not based on observable market data.

Observable inputs are based on market data obtained from independent sources, while unobservable inputs are based on the Company’s market assumptions. Unobservable inputs require significant management judgment or estimation. In some cases, the inputs used to measure an asset or liability may fall into different levels of the fair value hierarchy. In those instances, the fair value measurement is required to be classified using the lowest level of input that is significant to the fair value measurement. Such determination requires significant management judgment. As of February 28, 2022 there were no financial assets or liabilities measured at fair value.

Property and Equipment

Property and equipment are stated at cost less accumulated depreciation. Depreciation is computed using the straight-line method over the estimated useful lives of the assets. The cost of maintenance and repairs is charged to operations as incurred, whereas significant repairs are capitalized.

Lease Accounting

The Company accounts for its leases under ASC 842, Leases (“ASC 842”). Accordingly, the Company determines whether an arrangement contains a lease at the inception of the arrangement. If a lease is

APPLIED BLOCKCHAIN INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

For the Three and Nine Month Periods Ended February 28, 2022

determined to exist, the term of such lease is assessed based on the date on which the underlying asset is made available for the Company's use by the lessor. The Company's assessment of the lease term reflects the non-cancelable term of the lease, inclusive of any rent-free periods and/or periods covered by early-termination options which the Company is reasonably certain of not exercising, as well as periods covered by renewal options which the Company is reasonably certain of exercising. The Company also determines lease classification as either operating or finance at lease commencement, which governs the pattern of expense recognition and the presentation reflected in the consolidated statements of operations over the lease term.

For leases with a term exceeding 12 months, a lease liability is recorded on the Company's consolidated balance sheet at lease commencement reflecting the present value of its fixed minimum payment obligations over the lease term. A corresponding right-of-use ("ROU") asset equal to the initial lease liability is also recorded, adjusted for any prepaid rent and/or initial direct costs incurred in connection with execution of the lease and reduced by any lease incentives received. For purposes of measuring the present value of its fixed payment obligations for a given lease, the Company uses its incremental borrowing rate, determined based on information available at lease commencement, as rates implicit in its leasing arrangements are typically not readily determinable. The Company's incremental borrowing rate reflects the rate it would pay to borrow and incorporates the term and economic environment of the associated lease.

For the Company's operating leases, fixed lease payments are recognized as lease expense on a straight-line basis over the lease term. For leases with a term of 12 months or less, any fixed lease payments are recognized on a straight-line basis over the lease term and are not recognized on the Company's consolidated balance sheet as an accounting policy election. Leases qualifying for the short-term lease exception were insignificant. Variable lease costs are recognized as incurred.

Income Taxes

ASC Topic 740, Income Taxes, ("ASC 740"), also clarifies the accounting for uncertainty in income taxes recognized in an enterprise's financial statements and prescribes a recognition threshold and measurement process for financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return. The benefit of a tax position is recognized in the financial statements in the period during which based on all available evidence, management believes it is more likely than not that the position will be sustained upon examination, including the resolution of appeals or litigation processes, if any. Tax positions taken are not offset or aggregated with other positions.

Based on the Company's evaluation, it has been concluded that there are no significant uncertain tax positions requiring recognition in the Company's consolidated financial statements.

Offering Costs

The Company complies with the requirements of ASC 340-10-S99-1 and SEC Staff Accounting Bulletin Topic 5A; "Expenses of Offering". The Company had deferred offering costs of \$314 thousand as of February 28, 2022 and no deferred offering costs as of May 31, 2021. The deferred offering costs as of February 28, 2022 relate to the Company's initial public offering, and primarily

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consist of accounting and legal services, and securities registration expenses. These offering costs will be charged to shareholders' equity at the offering close date.

Recent Accounting Pronouncements

The Company continually assesses any new accounting pronouncements to determine their applicability. When it is determined that a new accounting pronouncement affects the Company's financial reporting, the Company undertakes a study to determine the consequences of the change to its consolidated financial statements and assures that there are proper controls in place to ascertain that the Company's consolidated financial statements properly reflect the change.

In December 2019, the FASB issued ASU No. 2019-12, "*Income Taxes (Topic 740): Simplifying the Accounting for Income Taxes*" ("ASU 2019-12"), which is intended to simplify various aspects related to accounting for income taxes. ASU 2019-12 removes certain exceptions to the general principles in Topic 740 and clarifies and amends existing guidance to improve consistent application. This guidance is effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2020, with early adoption permitted. The adoption of this ASU had no impact on the Company's financial statements.

In August 2020, the FASB issued ASU No. 2020-06, *Debt — Debt with Conversion and Other Options (Subtopic 470-20) and Derivatives and Hedging — Contracts in Entity's Own Equity (Subtopic 815-40): Accounting for Convertible Instruments and Contracts in an Entity's Own Equity*, which simplifies accounting for convertible instruments by removing major separation models required under current GAAP. The ASU removes certain settlement conditions that are required for equity contracts to qualify for the derivative scope exception, and it also simplifies the diluted earnings per share calculation in certain areas. This ASU is effective for annual reporting periods beginning after December 15, 2021, including interim periods within those fiscal years. Early adoption is permitted, but no earlier than fiscal years beginning after December 15, 2020. This update permits the use of either the modified retrospective or fully retrospective method of transition. The Company is currently evaluating the impact this ASU will have on its consolidated financial statements and related disclosures.

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4. PROPERTY AND EQUIPMENT

Property and equipment consisted of the following as of February 28, 2022, and May 31, 2021:

	Estimated Useful Life	February 28, 2022	May 31, 2021
Hosting Equipment			
Electric Generation and Transformers	15 years	\$ 4,172	\$—
Office and computer equipment			
Software	5 years	41	—
Computer Equipment	5 years	17	17
Furniture and Fixtures	7 years	432	4
Construction in Progress		4,677	—
Autos	5 years	135	—
General Equipment	5 years	8,955	—
Land & Building			
Land		1,074	—
Land Improvements	15 years	1,180	—
Building	39 years	23,181	—
Total cost of property and equipment		\$ 43,864	\$ 21
Accumulated Depreciation		(245)	(1)
Property Plant and Equipment, Net		\$43,619	\$ 20

Depreciation expense from continuing operations totaled \$245 thousand and \$0 for the three and nine-month periods ended February 28, 2022 and 2021, respectively.

As part of the Company's presentation of discontinued operations, the Company reclassified approximately \$7.2 million of gross assets and \$690 thousand of accumulated depreciation into current assets of discontinued operations. The Company also recognized a \$3.3 million loss to measure the current assets of discontinued operations at fair value less cost to sell in accordance with ASC 360-10-45-13. This loss has been presented within loss from discontinued operations.

5. REVENUE FROM CONTRACTS WITH CUSTOMERS

The Company recognizes revenue when promised services are transferred to customers in an amount that reflects the consideration to which the Company expects to be received in exchange for those services. The Company notes all revenue recognized from continuing operations during the quarter was received through hosting revenue. All revenue recognized from cryptoasset mining revenue is included within discontinued operations.

Hosting revenue

The Company provides energized space to customers who locate their hardware within the Company's co-hosting facility. All performance obligations are achieved simultaneously by providing the hosting environment for the customers' operations. Hosting revenue is recorded monthly in fixed amounts based on the terms of the hosting agreements. Customer contracts include advance payment terms. Advanced payments are recorded as deferred revenue until the related service is provided.

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The Company has a material customer concentration in the hosting business. The Company has entered into contracts with JointHash Holding Limited (a subsidiary of GMR), Bitmain Technologies Limited, F2Pool Mining, Inc. and Hashing LLC to utilize the first co-hosting facility which was brought online in February 2022.

Below is a summary of the Company's revenue concentration by major customer for the three months ended February 28, 2022 and 2021.

Customer	Three Months Ended February 28, 2022		Three Months Ended February 28, 2021	
Customer A	62	%	—	%
Customer B	16	%	—	%
Customer C	13	%	—	%

Below is a summary of the Company's revenue concentration by major customer for the nine months ended February 28, 2022 and 2021.

Customer	Nine Months Ended February 28, 2022		Nine Months Ended February 28, 2021	
Customer A	62	%	—	%
Customer B	16	%	—	%
Customer C	13	%	—	%

Additionally, the below table illustrates the Company's accounts receivable concentration as of February 28, 2022 and May 31, 2021.

Customer	February 28, 2022		May 31, 2021	
Customer A	62	%	—	%
Customer B	16	%	—	%
Customer C	13	%	—	%

Remaining Performance Obligations

As of February 28, 2022, the Company had \$ 3.9 million in deferred revenue, which represents the Company's remaining performance obligations. The Company expects to recognize all of this revenue within the next 12 months.

6. RELATED PARTY NOTES PAYABLE

A related party note payable held by the CEO of the Company was extinguished with stock issuance settlement on June 12, 2021. An exchange agreement was reached effective June 12, 2021, whereby outstanding debt principal of \$470 thousand and accrued interest of \$1.6 million was converted to 5.1 million aggregate Common Stock shares at a fair value price of \$.75 per share for a loss on extinguishment of \$1.3 million. Upon the consummation of the Exchange Agreement, the note payable was surrendered and cancelled; and all rights including rights to accrued interest due will be extinguished.

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7. INCOME TAXES

The Company recorded income tax expense of \$60 thousand for the three months ended February 28, 2022, and \$274 thousands for the nine months ended February 28, 2022 compared to zero for the three and nine months ended February 28, 2021. The Company's effective tax rate was (1.47)% and 0% for the nine months ended February 28, 2022 and 2021, respectively.

The effective tax rate for the nine months ended February 28, 2022 differed from the statutory rate of 21% primarily due to permanent differences related to debt extinguishment as well as changes in the valuation allowance.

The following table presents current and deferred tax expense for the nine month periods ended February 28, 2022 and 2021.

	Nine Months Ended Period Ended February 28, 2022	
	2022	2021
Current expense (benefit) - Continuing Operations		
Federal	\$ —	\$ —
State	\$ —	\$ —
Total current expense	\$ —	\$ —
Deferred expense (benefit)		
Federal	\$ 274	\$ —
State	\$ —	\$ —
Total deferred expense (benefit)	\$ 274	\$ —
Total income tax expense (benefit)	\$ 274	\$ —

The following table presents a reconciliation of the statutory tax rate to the effective tax rate for the nine month periods ended February 28, 2022 and 2021.

	February 28, 2022	February 28, 2021
Expected income tax expense (benefit) at U.S. statutory rate	21.00 %	21.00 %
Extinguishment of Debt	-0.79 %	
State Tax Expense	0.00 %	0 %
Change in Valuation Allowance	-21.68 %	-21.00 %
Income Tax Expense / (Benefit)	-1.47 %	0 %

8. REDEEMABLE EQUITY**Series C Preferred Stock**

As of February 28, 2022, 676,086 shares of Series C Preferred Stock are outstanding. The shares of Series C Preferred Stock are convertible into shares of Common Stock. These shares were offered and sold to certain "accredited investors" in a private placement without registration of the shares under Rule 506 of the Securities Act and the rules and regulations promulgated thereunder.

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Holders of Series C Preferred Stock shall vote together with holders of common stock on an as-if converted to Common Stock basis, except in certain circumstances, such as a material change to the principal business, or a significant transaction event defined by the certificate of designation. Series C Preferred Stock ranks pari passu with the Series D Preferred Stock.

Paid-in-kind (“PIK”) Dividends will be charged at a rate of 10% per annum provided that the Company’s Common Stock is not listed or traded before December 15, 2021, or 12% if the registration statement relating to the resale of shares of Common Stock issuable upon conversion of the outstanding shares of Series C Preferred Stock has not been declared by that date. The rate will increase to 15% if these targets are not met by October 15, 2022. Dividends will be terminated upon conversion or upon the Company’s satisfaction of the listing target and registration statement target.

On the date that an event triggers an automatic conversion, including the date on which the Resale Registration Statement (as defined below) is declared effective by the SEC (the “Conversion Date”), all outstanding shares of Series C Preferred Stock will be automatically converted (without payment of additional consideration) into such number of fully paid and non-assessable shares of common stock as determined by dividing the Stated Value of such shares by the Conversion Price of \$0.13, subject to adjustment, in effect on such Conversion Date.

The Company is required to reserve and keep available shares of Common Stock out of authorized and unissued shares of common stock for the sole purpose of issuance upon conversion of the Series C Preferred Stock, free from preemptive rights or any other actual contingent purchase rights. Each holder of shares of Series C Preferred Stock is entitled to convert any portion of the outstanding Series C Preferred Stock and any PIK Dividends held by such holder, without the payment of additional consideration, into such number of fully paid and non-assessable shares of Common Stock.

Unless prohibited by Nevada law, shares of Series C Preferred Stock shall be redeemed (a “Mandatory Redemption”) at a price equal to Stated Value of such Series C Preferred Stock, plus an amount per share equal to the Stated Value of each share of Series C Preferred Stock issuable as a result of accrued but unpaid PIK Dividends (the “Redemption Price”), if the Requisite Holders provide written notice of redemption to the Company on or after October 15, 2022, which notice may only be so provided if on or after such date Common Stock is not listed on a Trading Market. The date of redemption will be selected by the Company and occur within 30 days following the date that the Company receives such notice.

If the Company fails to redeem the Series C Preferred Stock as set forth above, PIK Dividends will continue to accrue.

Series D Preferred Stock

As of the date hereof, 1,413,624 shares of Series D Preferred Stock are issued and outstanding. The shares of Series D Preferred Stock are convertible into shares of Common Stock. These shares were offered and sold to certain “accredited investors” and non-U.S. Persons in a private placement without registration of the shares under Regulation D and Regulation S of the Securities Act.

The Series D Preferred stock ranks pari passu with the Series C Preferred Stock.

Holders of Series D Preferred Stock shall vote together with holders of Common Stock on an as-if converted to common stock basis, except in certain circumstances, such as a material change to the principal business, or a significant transaction event defined by the certificate of designation.

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PIK dividends will be charged at a rate of 10% per annum provided that the Company's Common Stock is not listed or traded before December 15, 2021, or 12% if the registration statement relating to the resale of the shares of Common Stock issuable upon conversion of the outstanding shares of Series D Preferred Stock has not been declared by that date. The rate will increase to 15% if these targets are not met by October 15, 2022. Dividends will be terminated upon conversion or upon the Company's satisfaction of the listing target and registration statement target.

On the Conversion Date, all shares of Series D Preferred Stock will be automatically converted (without payment of additional consideration) into such number of fully paid and non-assessable shares of Common Stock as determined by dividing the Stated Value by the Conversion Price in effect on such Conversion Date. All rights with respect to the Series D Preferred Stock will terminate on the Conversion Date.

The conversion price shall be a price per share equal to the least of (i) \$0.44 per share, (ii) 75% of the price per share to be sold in certain offerings, including an initial public offering, (iii) 75% of the opening public price per share in a direct listing of Common Stock on a Trading Market (as defined in the Certification of Designations for the Series D Preferred Stock), or (iv) 75% of the per share amount to be paid for each share of Common Stock in a sale of all or substantially all of stock or assets, in each case subject to adjustment.

The Company is required to reserve and keep available shares of Common Stock out of its authorized and unissued shares of Common Stock for the sole purpose of issuance upon conversion of the Series D Preferred Stock, free from preemptive rights or any other actual contingent purchase rights.

Each holder of shares of Series D Preferred Stock is entitled to convert any portion of the outstanding Series D Preferred Stock and any PIK Dividends held by such holder, without the payment of additional consideration, into such number of fully paid and non-assessable shares of Common Stock by dividing (A) the sum of (1) the Stated Value of all outstanding shares of Series D Preferred Stock being converted, (2) the aggregate Stated Value of all shares of Series D Preferred Stock due as PIK Dividends to such holder being converted and (3) any cash dividends accrued and payable to such holder by (B) the conversion price in effect, as adjusted.

Unless prohibited by Nevada law, shares of Series D Preferred Stock shall be redeemed (a "Mandatory Redemption") at a price equal to Stated Value of such Series D Preferred Stock, plus an amount per share equal to the Stated Value of each share of Series D Preferred Stock issuable as a result of accrued but unpaid PIK Dividends (the "Redemption Price"), if the Requisite Holders provide written notice of redemption to the Company on or after October 15, 2022, which notice may only be so provided if on or after such date common stock is not listed on a Trading Market. The date of redemption will be selected by the Company and occur within 30 days following the date that the Company receives such notice.

If the Company fail to redeem the Series D Preferred Stock as set forth above, PIK Dividends will continue to accrue.

For the three and nine months ended February 28, 2022, the Company has accrued approximately \$ 402 thousand and \$840 thousand of Series C PIK Dividends and Series D PIK Dividends, respectively.

Conversion of Preferred Stock

On August 13, 2021, the Company filed a registration statement for the resale by certain selling stockholders of shares of Common Stock with the SEC (Reg. No. 333-258818) (the "Resale

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Registration Statement”) and received a notice of effectiveness for such registration statement on April 12, 2022.

On April 12, 2022, concurrent with receipt of the notice of effectiveness for the Resale Registration Statement, all outstanding shares of Series C Preferred Stock and Series D Preferred Stock were automatically converted (without payment of additional consideration) into fully paid and non-assessable shares of Common Stock, consistent with the Series C and Series D Preferred Stock terms. All rights with respect to the Series C and Series D Preferred Stock terminated upon conversion.

Liquidation preferences table for Preferred Stock shown below:

Class of Stock	Ranking	Liquidation Preferences	
Redeemable and Convertible Series C shares	Priority 1	Cash equal to \$25 per share plus accrued or unpaid PIK dividends	Ratably share in distribution of assets in proportion to preferential entitled amounts
Redeemable and Convertible Series D shares	Priority 1	Cash equal to \$25 per share plus accrued or unpaid PIK dividends	Ratably share in distribution of assets in proportion to preferential entitled amounts

Valuation summary table for Preferred Stock for both the three and nine months ended February 28, 2022 is shown below:

Class of Stock	Original Proceeds, Net	Accrued Dividends	Redemption Amount	Liquidation Amount
Redeemable and Convertible Series C shares	\$ 15,135,023	\$ 402,150	\$ 15,537,173	\$ 16,500,000
Redeemable and Convertible Series D shares	\$ 31,574,000	\$ 840,300	\$ 32,414,600	\$ 34,500,000

9. SHAREHOLDERS' EQUITY (DEFICIT)**Common Stock**

The Company is authorized to issue 166,666,666 shares of Common Stock at \$.001 par value per share. Note that all shares of Common Stock in this disclosure reflect the one-for-six reverse stock split disclosed in Note 1 - Business and Organization.

Equity Compensation

On January 18, 2022, the Company issued (i) an aggregate of 600,000 shares of restricted stock, consisting of 100,000 shares to each of its non-employee directors and (ii) an aggregate of 766,666 shares of restricted stock to three executives, in all cases as compensatory grants for services rendered to the Board or the Company. Each of the awards vests upon the completion of service conditions for specified times and a performance condition for the occurrence of an effective registration statement with the Securities and Exchange Commission (the “SEC”). The Company will recognize the cost of these RSUs based on the grant date fair value of the awards over the related vesting terms using a straight-line method when it is probable that the performance condition of an effective registration statement will be met. The fair value of these RSUs was estimated to be \$11.0 million.

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On January 14, 2022, the Company granted an aggregate of 1,791,666 restricted stock units (“RSUs”) to three consultants, in all cases as compensatory grants for consulting services rendered to the Company which contain performance conditions that affect vesting. The performance conditions specify that the RSUs are achieved based on specific thresholds of power to become available in the Company’s colocation hosting facility and also upon the occurrence of an effective registration statement with the SEC. The Company will recognize the cost of these RSUs based on the grant date fair value of the awards when it is probable that the performance conditions will be achieved over the related vesting terms, which is expected to result in expense recognition for the years ended May 31, 2022 and May 31, 2023. The fair value of these RSUs was estimated to be \$14.4 million.

The fair value of the shares of common stock underlying equity compensation has been determined by using a third-party valuation specialist to assist management in its determination. Management determines the fair value of the Company’s Common Stock by considering a number of objective and subjective factors including: the valuation of comparable companies, sales of redeemable convertible preferred stock to unrelated third parties, the Company’s operating and financial performance, and general and industry specific economic outlook, amongst other factors.

The Company estimated the fair value of the Common Stock at issuance date using a Probability Weighted Expected Return Method (“PWERM”). The PWERM estimated the fair value assuming two possible outcomes, for which each discrete outcome is probability weighted to arrive at a weighted-average value. The Company weighted two different scenarios as follow:

Scenario

Scenario	Weight
Public Company scenario (“listing scenario”) through a traditional IPO	95 %
Remain a private Company scenario (“private scenario”)	5 %

As the performance condition of an effective registration statement has not been met as of February 28, 2022, no expense has been recognized for the three and nine months ended February 28, 2022.

Share-Based Compensation

In March 2021, the Company entered into service agreements collectively with GMR Limited, Xsquared Holding Limited (“SparkPool”), and Valuefinder to provide cryptocurrency mining management, equipment, and other services to assist with the mining operation of the Company during 2021 and 2022. In exchange, the Company agreed to issue Common Stock shares as shown below and included in the agreement. All shares were issued in June 2021.

Service Provider	Common Stock Shares Committed
ValueFinder	3,156,427
SparkPool	7,440,148
GMR	7,441,648
Total	18,038,223

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The fair value of the share-based compensation issued was calculated using the fair value of outstanding equity using the option pricing method, weighted as shown below. All shares issued under the agreement were vested immediately.

Class of Stock	Option Pricing Fair Value	Weight
Common Stock	\$ 0.402	8 %
Conversion Price of Series C Shares	0.780	92 %
	<u>\$ 0.750</u>	

Series A Convertible Preferred Stock

Each share of Series A Convertible Preferred Stock ("Series A Preferred Stock") had a liquidation value of \$ 100 per share, was convertible into 1,429 shares of Common Stock of the Company (subject to adjustment) and paid a cash dividend of 8% or a dividend in kind of 10%. The dividends were accrued quarterly based on the original purchase price of the Series A Preferred Stock.

All shares of Series A Preferred Stock were converted effective June 12, 2021, to shares of Common Stock. 6,809,833 shares of Common Stock were issued in exchange for the Series A Convertible Preferred Stock.

There are no accrued dividends related to the Series A Convertible Preferred Stock as of February 28, 2022.

Series B Convertible Preferred Stock

Each share of Series B Convertible Preferred Stock ("Series B Preferred Stock") had a liquidation value of \$ 100 per share, was convertible into 1,000 shares of Common Stock of the Company (subject to adjustment) and paid a cash dividend of 8% or a dividend in kind of 10%. The dividends were accrued quarterly based on the original purchase price of the Series B Preferred Stock.

All shares of Series B Preferred Stock were converted effective June 12, 2021, to shares of Common Stock. 6,809,833 shares of Common Stock were issued in exchange for the Series B Convertible Preferred Stock.

There are no accrued dividends related to the Series B Convertible Preferred Stock as of February 28, 2022.

Equity Plan Approval

On October 9, 2021, our Board approved two equity incentive plans, which our stockholders approved on January 20, 2022. The two plans consist of the 2022 Incentive Plan, previously referred to in our SEC filings as the 2021 Incentive Plan (the "Incentive Plan"), which provides for grants of various equity awards to our employees and consultants, and the 2022 Non-Employee Director Stock Plan previously referred to in our SEC filings as the 2022 Incentive Plan (the "Director Plan" and, together with the Incentive Plan, the "Plans"), which provides for grants of restricted stock to non-employee directors and for deferral of cash and stock compensation if such deferral provisions are activated at a future date. As of February 28, 2022, no awards had been granted under either plan.

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10. LEASES

As of February 28, 2022, the Company had an operating lease liability and right of use asset for its office space that expires in October 2026. The Company also entered into one finance lease for equipment as of February 28, 2022. As of February 28, 2021, the Company did not have any significant operating or finance lease balances. Rental expense for lease payments related to operating leases is recognized on a straight -line basis over the remaining lease term.

The Company has elected the short-term lease exception and therefore, only recognized lease liabilities and right of use assets for leases longer than one year. The Company has also elected the practical expedient of not separating lease components from non-lease components for its real estate leases.

As of February 28, 2022, and May 31, 2021 the balance of the right of use assets were \$ 1.2 million and \$0, respectively, and the balance of the lease liability is \$1.2 million and \$0, respectively, for the Company's office lease and its leased equipment.

The calculation of these lease assets and liabilities includes minimum lease payments over the remaining lease term. Any variable lease payments are excluded from the amounts and are recognized in the period in which those obligations are incurred. Operating lease assets are included as right of use assets, net on the Balance Sheet. The current portion of lease liabilities are presented as current portion of lease liability on the Balance Sheet with the remainder included as long-term portion of lease liability on the Balance Sheet.

Balance sheet presentation of lease assets and liabilities, net is as follows:

Lease Type	Consolidated Balance Sheet Location	February 28, 2022
Operating Lease Assets	Right of use asset, net	\$ 1,142
Finance lease assets	Right of use asset, net	\$ 65
Total lease assets		<u>\$ 1,207</u>
Operating Lease liabilities	Current portion of operating lease liability	\$ 185
Operating Lease liabilities	Long-term Portion of Lease Liability	\$ 969
Total Operating Lease Liabilities		<u>\$ 1,154</u>
Finance lease liabilities	Current portion of lease liability	\$ 26
Finance Lease liabilities	Long-term portion of lease liability	\$ 40
Total Finance Lease Liabilities		<u>\$ 66</u>
Total lease liabilities		<u>\$ 1,220</u>

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The Company's lease cost under ASC 842 is as follows:

Lease Type	Consolidated Statements of Income Location	3 Months Ended	9 Months Ended
		February 28, 2022	February 28, 2022
Operating lease expense	Selling, General and Administrative	\$ 78	\$ 243
Finance lease expense	Selling, General and Administrative	\$ 2	\$ 2
Short-term lease expense	Selling, General and Administrative	\$ 20	\$ 39
Total Lease Cost		\$ 100	\$ 284

The following table represents the Company's future minimum operating lease payments as of February 28, 2022, under ASC 842 (in thousands):

Year	Operating Leases	Finance Leases	Total
FY22	\$ 78	\$ 7	\$ 85
FY23	318	29	347
FY24	326	29	355
FY25	334	6	340
FY26	342	—	342
Beyond	176	—	176
Total	\$ 1,574	\$ 71	\$ 1,645
Present Value of lease liabilities	\$ 1,154	\$ 66	\$ 1,220
Less Current portion of lease liability	\$ 185	\$ 26	\$ 211
Long-term portion of lease liability	\$ 969	\$ 40	\$ 1,009

Supplemental cash flow and other information related to leases is as follows:

Weighted-average months remaining	55 months
Weighted-average discount rate	12.20 %
Cash flows from operating leases	\$ 233
Cash flows from finance leases	\$ 2

11. RELATED PARTY TRANSACTIONS

Parties are considered related to the Company if the parties, directly or indirectly, through one or more intermediaries, control, are controlled by, or are under common control with the Company. Related parties also include principal owners of the Company, its management, members of the immediate families of principal owners of the Company and its management and other parties with which the Company may deal if one party controls or can significantly influence the management or operating policies of the other to an extent that one of the transacting parties might be prevented from fully pursuing its own separate interests. The Company discloses all related party transactions.

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In March 2021, the Company executed a strategy planning and portfolio advisory services agreement with an entity that is controlled by a board member of the Company. Compensation for the services provided will be through issuance of 19.0 million shares of Company' fully diluted and outstanding Common Stock. All shares of Common Stock issuable under the agreement were issued in June 2021.

12. COMMITMENTS AND CONTINGENCIES**Commitments***Purchase Agreements*

As of February 28, 2022, the Company has purchase commitments totaling \$ 697 thousand for the year ending May 31, 2022, and has no purchase commitments for periods beyond May 31, 2022.

Claims and Litigation

From time to time, the Company may be involved in litigation relating to claims arising out of operations in the normal course of business. As of February 28, 2022, there were no pending or threatened lawsuits that could reasonably be expected to have a material effect on the results of the Company's consolidated operations. There are also no legal proceedings in which any of the Company's management or affiliates is an adverse party or has a material interest adverse to the Company's interest.

13. EARNINGS PER SHARE

Basic net income (loss) per share ("EPS") of Common Stock is computed by dividing the Company's net earnings (loss) by the weighted average number of shares of Common Stock outstanding during the period. Diluted EPS reflects the potential dilution that could occur if the securities or other contracts to issue Common Stock were exercised or converted into Common Stock or resulted in the issuance of Common Stock that then shared in the earnings of the entity.

Potentially dilutive securities are excluded from the computation of diluted net loss per share as their inclusion would be anti-dilutive. Refer to Footnote 9 for details on outstanding classes of preferred shares. The table below shows the calculation for this quarter's earnings per share:

Basic and diluted income (loss) per share:

	Quarterly Period Ended	
	February 28, 2022	February 28, 2021
Net Income (loss) from continuing Operations	\$ (2,397)	\$ (77)
Net Income (loss) from discontinued Operations	\$ (4,048)	\$ —
Net Income (loss) attributable to Applied Blockchain	\$ (6,445)	\$ (77)
Continuing Operations	\$ (0.04)	\$ (0.05)
Discontinued Operations	\$ (0.08)	\$ —
Basic and diluted net loss per share	\$ (0.12)	\$ (0.05)
Basic and diluted weighted average number of shares outstanding	53,396,920	1,511,061

APPLIED BLOCKCHAIN INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

For the Three and Nine Month Periods Ended February 28, 2022

Basic and diluted income (loss) per share:

	Year-to-Date Period Ended	
	February 28, 2022	February 28, 2021
Net Income (loss) from continuing Operations	\$ (17,843)	\$ (223)
Net Income (loss) from discontinued Operations	\$ (2,870)	\$ —
Net Income (loss) attributable to Applied Blockchain	<u>\$ (20,713)</u>	<u>\$ (223)</u>
Continuing Operations	\$ (0.35)	\$ (0.15)
Discontinued Operations	\$ (0.06)	\$ —
Basic and diluted net loss per share	<u>\$ (0.41)</u>	<u>\$ (0.15)</u>
Basic and diluted weighted average number of shares outstanding	50,546,048	1,511,061

14. DISCONTINUED OPERATIONS

During February 2022, the Company implemented plans to cease all cryptomining operations and start the sale process of all cryptomining equipment. The assets to be sold are reflective of the entire mining reportable segment. Therefore, the mining operations represent a component of the entity, and meet all the criteria for held-for-sale classification under ASC 205. Further, the Company's plan represents a strategic shift, as the Company plans to generate the majority of future revenue through hosting operations. Therefore, the results of operations, financial position and cash flows of the mining operation have been presented as discontinued operations and the related assets have been classified as held-for-sale.

Operating results of discontinued operations are summarized below:

	Three Months Ended	
	February 28, 2022	February 28, 2021
Cryptoasset Mining Revenue	916	—
Mining Revenue Pool Fees	9	—
Cryptoasset Mining Revenue, Net	907	—
Cost of Sales	628	—
Gross Profit	279	—
Impairment of Cryptocurrency Assets	(226)	—
Gain/Loss on Sale of Fixed Assets	(847)	—
Gain/Loss on Assets Reclass to Discontinued Operations	(3,254)	—
Net Loss from Discontinued Operations	<u>(4,048)</u>	<u>—</u>

APPLIED BLOCKCHAIN INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

For the Three and Nine Month Periods Ended February 28, 2022

	Nine Months Ended	
	February 28, 2022	February 28, 2021
Cryptoasset Mining Revenue	2,975	—
Mining Revenue Pool Fees	30	—
Cryptoasset Mining Revenue, Net	2,945	—
Cost of Sales	1,589	—
Gross Profit	1,356	—
Impairment of Cryptocurrency Assets	(390)	—
Gain/Loss on Sale of Fixed Assets	(582)	—
Gain/Loss on Assets Reclass to Discontinued Operations	(3,254)	—
Net Loss from Discontinued Operations	(2,870)	—

The assets related to the cryptomining operation have all been remeasured to the fair value less cost to sale. As the Company completed the sale of the assets shortly after the quarter ended February 28, 2022, the Company has used the sale price and actual costs to sale to determine actual carrying value of the assets held for sale. The remaining assets are comprised of GPUs for cryptomining.

Current assets related to discontinued operations are summarized below

ASSETS	February 28, 2022	May 31, 2021
Current assets of discontinued operations	3,573	—

Crypto Assets

The Company recognizes revenue at the spot price of the cryptoasset when mined. The Company then tracks any gain or loss from the time the cryptoasset was mined to the time when it was ultimately sold or converted. The sale or conversion generally results in a realized gain or loss at the time of sale or conversion. The sale or conversion of cryptoassets results in the receipt of cash consideration.

As of February 28, 2022 and 2021, the Company did not hold any cryptoassets. For the three and nine months ended February 28, 2022, the Company recorded impairment expense of \$226 thousand and \$390 thousand respectively.

The following table presents a summary of cryptoasset activity by period.

	Three Months	Nine Months
Beginning Balance - May 31, 2021	\$ —	\$ —
Cryptoassets earned through mining	916	2,975
Mining pool operating fees	(9)	(30)
Cryptoassets sold or converted	(1,133)	(3,336)
Impairment of Cryptocurrency Assets	226	390
Ending Balance - February 28, 2022	\$ —	\$ —

APPLIED BLOCKCHAIN INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

For the Three and Nine Month Periods Ended February 28, 2022

Additional Cryptomining Accounting Policies

Cryptoassets

Cryptoassets are included in current assets in the accompanying consolidated balance sheets. Cryptoassets are classified as indefinite-lived intangible assets in accordance with Accounting Standards Codification (“ASC”) 350, Intangibles — Goodwill and Other, and are accounted for in connection with the Company’s revenue recognition policy detailed above and in Footnote 5. Management will evaluate market conditions on a quarterly basis. When events or circumstance identified through this process indicate that cryptoassets may be impaired, they are tested for impairment. Impairment, if any, is recognized for the difference between the fair value of the underlying cryptoasset and the carrying amount of the cryptoasset. Fair value is measured using the quoted price of the cryptoasset at the time its fair value is being measured.

Cryptoassets awarded to the Company through its mining activities are included within the operating activities in the accompanying consolidated statements of cash flows. Gains from the sales of cryptoassets are recorded in other income (expense) in the accompanying consolidated statements of operations. The Company accounts for its gains in accordance with the first in, first out (“FIFO”) method of accounting.

Cryptoasset mining revenue

The Company has entered into cryptoasset mining pools by executing contracts with the mining pool operators to provide computing power to the mining pool. The contracts are terminable at any time by either party and the Company’s enforceable right to compensation only begins when the Company provides computing power to the mining pool operator. In exchange for providing computing power, the Company is entitled to a theoretical fractional share of the cryptoasset award the mining pool operator receives (less service fees to the mining pool operator which are recorded as a reduction of revenue) for successfully adding a block to the blockchain. The Company’s fractional share is based on the proportion of computing power the Company contributed to the mining pool operator to the total computing power contributed by all mining pool participants in solving the current algorithm.

Providing computing power in cryptoasset transaction verification services is an output of the Company’s ordinary activities. The provision of providing such computing power is the only performance obligation in the Company’s contracts with mining pool operators and is satisfied over the time it takes to mine each block. The transaction consideration the Company receives, if any, is noncash consideration, which the Company receives on a daily basis and measures at fair value on the date received using the average price of the cryptoasset during the date, which is not materially different than the fair value at contract inception or the time the Company has earned the award from the pools. The consideration is all variable. Because validation awards are not known until a block is placed, the consideration is constrained until the mining pool operator successfully places a block (by being the first to solve an algorithm) and the Company receives confirmation of the consideration it will receive, at which time revenue is recognized. It is not probable that a significant reversal of revenue will occur. Fair value of the cryptoasset award received is determined using the quoted price on the Company’s primary exchange of the related cryptoasset.

15. SUBSEQUENT EVENTS

Sale of Crypto Mining Equipment

On March 9, 2022, the Company ceased all crypto mining operations and completed the sale of all crypto mining equipment in service. Total proceeds from the sale of the equipment were \$1.6 million. The Company has no plans to return to crypto mining operations in the future as the Company’s grows

APPLIED BLOCKCHAIN INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

For the Three and Nine Month Periods Ended February 28, 2022

its co-hosting operations. The results of the crypto mining operations are accounted for as discontinued operations in our consolidated financial statements as of and for the period ended February 28, 2022.

Loan Agreement

On March 11, 2022, the Company and Applied Hosting, LLC (“Hosting”), a wholly-owned subsidiary of the Company, entered into a term loan agreement (the “Loan Agreement”) by and among Hosting, as the borrower, Vantage Bank Texas, as lender (the “Lender”) and the Company as guarantor. Pursuant to the Loan Agreement, on March 11, 2022, Hosting entered into a promissory note agreement (the “ VBT Note”) and borrowed \$7.5 million for a five (5) year term with an interest rate of five percent (5%) per annum (the “Term Loan”). The proceeds of the Term Loan will be used for working capital needs for the operation of Phase I of the hosting facility in Jamestown, North Dakota. The Loan Agreement and VBT Note contain customary covenants, representations and warranties and events of default.

Also on March 11, 2022, the Company entered into a continuing guaranty agreement (the “Guaranty Agreement”) with the Lender, pursuant to which the Company agreed to guaranty Hosting’s indebtedness and obligations under the Loan Agreement. The Term Loan is secured by a mortgage on the real property constituting Phase I of the Jamestown, North Dakota property (the “Property”) pursuant to a Mortgage, Security Agreement and Fixture Financing Statement (the “Mortgage”), dated March 11, 2022, by and between Hosting and the Lender, and a security interest in the accounts receivable, rents and servicing agreements relating to the Property, and equipment as set forth in or required by the Loan Agreement.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

Forward-Looking Statements

This Quarterly Report contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended, that involve substantial risks and uncertainties. In some cases you can identify these statements by forward-looking words such as “anticipate,” “believe,” “could,” “estimate,” “expect,” “intend,” “may,” “plan,” “seek,” “should,” “will,” and “would,” or similar words. Statements that contain these words and other statements that are forward-looking in nature should be read carefully because they discuss future expectations, contain projections of future results of operations or of financial positions or state other “forward-looking” information.

Forward-looking statements involve inherent uncertainty and may ultimately prove to be incorrect or false. These statements are based on our management’s beliefs and assumptions, which are based on currently available information. These assumptions could prove inaccurate. You are cautioned not to place undue reliance on forward-looking statements. Except as otherwise may be required by law, we undertake no obligation to update or revise forward-looking statements to reflect changed assumptions, the occurrence of unanticipated events or actual operating results. Our actual results could differ materially from those anticipated in these forward-looking statements as a result of various factors, including, but not limited to:

- labor and other workforce shortages and challenges;
- our dependence on principal customers;
- the addition or loss of significant customers or material changes to our relationships with these customers;
- our sensitivity to general economic conditions including changes in disposable income levels and consumer spending trends;
- our ability to timely and successfully build new hosting facilities with the appropriate contractual margins and efficiencies
- our ability to continue to grow sales in our hosting business
- volatility of cryptoasset prices
- uncertainties of cryptoasset regulation policy

You should carefully review the risks described in the final prospectus of our Registration Statement on Form S-1 (Reg. No. 333-261278) filed with the SEC on April 13, 2022, as well as any other cautionary language in this Quarterly Report, as the occurrence of any of these events could have an adverse effect, which may be material, on our business, results of operations, financial condition or cash flows.

Executive Overview

The following discussion and analysis should be read in conjunction with our consolidated financial statements and the related notes and other financial information included elsewhere in this Quarterly Report on Form 10-Q.

Business Overview

We build and operate Next-Gen datacenters which are designed to provide massive computing power. Our first facility was constructed in North Dakota and as of February 2, 2022 is online and providing 55MW of energy and services to customers, with the remaining 45MW expected to be brought online during the second calendar quarter of 2022. We signed an energy services agreement with a utility to power this facility. We provide energized space for customers to host computing equipment. Initially, these datacenters primarily will host servers securing the Bitcoin network but can also host hardware for other applications such as artificial intelligence, machine learning and other blockchain networks in the future. We have a colocation business model where our customers place hardware they own into our facilities, and we provide full operational and maintenance services for a fixed fee. We typically enter into long-term fixed rate contracts with our customers.

Trends and Other Factors Affecting Our Business

Regulatory Environment

Our customers’ businesses are subject to extensive laws, rules, regulations, policies and legal and regulatory guidance, including those governing securities, commodities, cryptoasset custody, exchange and transfer, data governance, data protection, cybersecurity and tax. Many of these legal and regulatory regimes were adopted prior to the advent of the Internet, mobile technologies, cryptoassets and related technologies. As a result, they

do not contemplate or address unique issues associated with the crypto economy, are subject to significant uncertainty, and vary widely across U.S. federal, state and local and international jurisdictions. These legal and regulatory regimes, including the laws, rules and regulations thereunder, evolve frequently and may be modified, interpreted and applied in an inconsistent manner from one jurisdiction to another, and may conflict with one another. Moreover, the complexity and evolving nature of our business and the significant uncertainty surrounding the regulation of the crypto economy requires us to exercise our judgement as to whether certain laws, rules and regulations apply to us or our customers, and it is possible that governmental bodies and regulators may disagree with our or our customers' conclusions. To the extent we or our customers have not complied with such laws, rules and regulations, we could be subject to significant fines and other regulatory consequences, which could adversely affect our business, prospects or operations. As cryptoassets have grown in popularity and in market size, the Federal Reserve Board, U.S. Congress and certain U.S. agencies (e.g., the Commodity Futures Trading Commission, the SEC, the Financial Crimes Enforcement Network and the Federal Bureau of Investigation) have begun to examine the operations of cryptoasset networks, cryptoasset users and cryptoasset exchange markets. Other countries around the world are likewise reviewing and, in some cases, increasing regulation of the cryptoasset industry. For instance, on September 24, 2021, China imposed a ban on all crypto transactions and mining.

Ongoing and future regulatory actions could effectively prevent our customers' mining operations and our ongoing or planned co-hosting operations, limiting or preventing future revenue generation by us or rendering our operations and crypto mining equipment obsolete. Such actions could severely impact our ability to continue to operate and our ability to continue as a going concern or to pursue our strategy at all, which would have a material adverse effect on our business, prospects or operations.

COVID-19

The COVID-19 pandemic has had unpredictable and unprecedented impacts in the United States and around the world. The implications of the COVID-19 pandemic on our results of operations and overall financial performance remain uncertain. The economic effects of the pandemic and any recovery and resulting societal changes, including the impact of current labor shortages in the United States, are currently not predictable, and the future financial impacts could vary from those foreseen.

To the extent we are providing maintenance and repair services to our customers, our ability to provide such services may also be hampered by supply chain and labor disruptions.

Critical Accounting Policies and Estimates

Our consolidated financial statements are prepared in accordance with accounting principles generally accepted in the United States of America ("GAAP"). In connection with the preparation of our financial statements, we are required to make assumptions and estimates about future events and apply judgments that affect the reported amounts of assets, liabilities, revenue, expenses and the related disclosures. We base our assumptions, estimates and judgments on historical experience, current trends and other factors that management believes to be relevant at the time our consolidated financial statements are prepared. On a regular basis, management reviews the accounting policies, assumptions, estimates and judgments to ensure that our financial statements are presented fairly and in accordance with GAAP. However, because future events and their effects cannot be determined with certainty, actual results could differ from our assumptions and estimates, and such differences could be material.

Our significant accounting policies are discussed in Note 3 – Basis of Presentation and Significant Accounting Policies, of the Notes to Consolidated Financial Statements of this Quarterly Report on Form 10-Q.

Hosting Operation Highlights

On January 6, 2022, we and Antpool Capital Asset Investment, L.P., an affiliate of Bitmain Technologies Holding Company, entered into a joint venture in the form of 1.21 Gigawatts, LLC, pursuant to which we and Antpool contributed \$8 million and \$2 million, respectively, and will initially own 80% and 20% of 1.21 Gigawatts, respectively. 1.21 Gigawatts will develop, acquire, construct, finance, operate, maintain and own one or more Next-Gen datacenters with initially up to 1.5GW of capacity for hosting blockchain infrastructure. We

are the managing member of 1.21 Gigawatts and are responsible for all site development, construction and operations of the datacenters. However, certain activities of 1.21 Gigawatts and its subsidiaries, if any, require the vote of 90% of the then outstanding units of each such entity. As long as Antpool owns 10% or more of the total issued and outstanding units of 1.21 Gigawatts, Antpool may appoint an individual with industry expertise to serve as an advisor to 1.21 Gigawatts. 1.21 Gigawatts will pay fees to such advisor as reasonably determined by us as managing member. Transfers by members of units of 1.21 Gigawatts are prohibited without approval of 90% of units then outstanding, which consent may be granted or withheld for any reason and transfers of such units to non-affiliates, after obtaining consent, are subject to a right of first refusal of other members to purchase some or all of such units. Additionally, Antpool has the right at any time to convert all or any portion of its 1.21 Gigawatts units into a number of shares of our Common Stock equal to the capital contributions by Antpool in connection with the acquisition of such units divided by \$7.50, which will result in an increase in our ownership percentage of 1.21 Gigawatts.

On February 2, 2022, we brought our North Dakota facility online as to the first 55MW, with the remaining 45MW expected to be brought online during the second calendar quarter of 2022.

Crypto Mining Operations

On March 9, 2022, the Company ceased all crypto mining operations and completed the sale of all crypto mining equipment in service. Total proceeds from the sale of the equipment were \$1.6 million, and the Company will recognize a loss \$2.9 million on the sale of the equipment during the quarter ending May 31, 2022. The Company has no plans to return to crypto mining operations in the future as we grow our co-hosting operations. The results of the crypto mining operations are accounted for as discontinued operations in our consolidated financial statements as of and for the period ended February 28, 2022.

Expansion Opportunities

On November 24, 2021, we entered into a letter of intent to develop a facility in Texas with 200MW of wind power. The arrangement is subject to entry into definitive agreements by the parties. Construction of the facility began in March 2022.

We are exploring potential new locations where we intend to replicate our hosting business model. Additionally, we are evaluating potential partnerships with owners of low-cost energy sources, with a particular focus on renewable sources, as a potential avenue to grow our hosting operations.

As our hosting operations expand, we believe our business structure will become conducive to a REIT structure, comparable to Digital Realty Trust (NYSE: DLR) and Equinix, Inc. (NASDAQ: EQIX), each of which is a traditional datacenter operator and Innovative Industrial Properties, Inc. (NYSE: IIPR), a specialty REIT that similarly services a new growth industry. We have begun to investigate the possibility, costs and benefits of converting to a REIT structure.

Public Offering and Changes to Equity

On August 13, 2021, the Company filed a registration statement for the resale by certain selling stockholders of shares of Common Stock with the SEC (Reg. No. 333-258818) (the “Resale Registration Statement”) and received a notice of effectiveness for such registration statement on April 12, 2022. On November 22, 2021, the Company filed a registration statement for the sale by the Company of shares of Common Stock with the SEC (Reg. No. 333-261278) (the “IPO Registration Statement”) and received a notice of effectiveness for such registration statement on April 12, 2022. On April 11, 2022, the Company filed a registration statement for the Common Stock under the Securities Exchange Act of 1934, as amended, with the SEC which became effective automatically on April 12, 2022.

On April 12, 2022, concurrent with receipt of the notice of effectiveness for the Resale Registration Statement, all outstanding shares of Series C Preferred Stock and Series D Preferred Stock were automatically converted (without payment of additional consideration) into fully paid and non-assessable shares of Common Stock, consistent with the Series C and Series D Preferred Stock terms. All rights with respect to the Series C and Series D Preferred Stock terminated upon conversion.

The Company’s board of directors approved a reverse split of shares of the Company’s common stock on a one-for-six basis, which was effected on April 12, 2022 (the “Reverse Stock Split”). All references to Common

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Stock, options to purchase common stock, restricted stock units, share data, per share data and related information contained in the condensed consolidated financial statements have been retrospectively adjusted to reflect the effect of the Reverse Stock Split for all periods presented. No fractional shares of the Company's common stock were issued in connection with the Reverse Stock Split. Any fractional share resulting from the Reverse Stock Split was rounded down to the nearest whole share and the affected holder received cash in lieu of such fraction share. Any fractional share resulting from the Reverse Stock Split was rounded down to the nearest whole share.

On April 13, 2022, the Company announced its initial public offering of 8 million shares of its Common Stock at \$5.00 per share. The shares began trading on the Nasdaq Global Select Market on April 13, 2022, under the ticker symbol "APLD."

On April 18, 2022, the Company completed its initial public offering. In addition, the Company granted the underwriters a 30-day option to purchase up to an additional 1,200,000 shares of common stock at the public offering price, less underwriting discounts and commissions. The net proceeds received by the Company from the offering (after deducting underwriting discounts and commission and estimated offering expenses) were approximately \$36 million. The Company intends to use the net proceeds to lease or purchase additional property on which to build additional co-hosting facilities, to construct those facilities, to enter into additional energy service agreements for each additional site and for funding its working capital and general corporate purposes.

Results of Operations Comparative Results for the Three and Nine Months Ended February 28, 2022 and 2021:

The following table sets forth key components of the results of operations (in thousands) of Applied Blockchain during the three and nine months ended February 30, 2021 and 2020.

	Three Months Ended		Nine Months Ended	
	February 28, 2022	February 28, 2021	February 28, 2022	February 28, 2021
Revenues:				
Hosting revenue	\$ 1,026	\$ —	\$ 1,026	\$ —
Total revenue, net	\$ 1,026	\$ —	\$ 1,026	—
Cost of revenues	\$ 2,073	\$ —	\$ 2,073	\$ —
Gross Profit	(1,047)	—	(1,047)	—
Costs and expenses:				
Selling, General and Administrative	1,356	—	3,234	—
Stock-based compensation for service agreement	—	—	12,337	—
Depreciation	14	—	14	—
Total costs and expenses	1,370	0	15,585	0
Operating loss	(2,417)	—	(16,632)	0
Other income (expense):				
Interest Expense	—	(77)	—	(223)
Gain on Extinguishment of Accounts Payable	80	—	405	—
Loss on Extinguishment of Debt	—	—	(1,342)	—
Income Tax Expenses	(60)	—	(274)	—
Total Other Income (Expense)	20	(77)	(1,211)	(223)
Net Loss from Continuing Operations	(2,397)	(77)	(17,843)	(223)
Net Loss from Discontinued Operations	(4,048)	—	(2,870)	—
Total Net Loss	\$ (6,445)	\$ (77)	\$ (20,713)	\$ (223)
Adjusted Amounts (a)				
Adjusted Operating Loss from Continuing Operations	\$ (2,064)	\$ —	\$ (2,289)	\$ —
Adjusted Operating Margin from Continuing Operations	(201.17)%	— %	(223.14)%	— %
Adjusted Net Loss from Continuing Operations	\$ (2,044)	\$ (77)	\$ (3,500)	\$ (223)
Other Financial Data (a)				
EBITDA	\$ (2,092)	\$ —	\$ (17,324)	\$ —
as a percentage of revenues	(203.9)%	— %	(1688.5)%	— %
Adjusted EBITDA	\$ (1,739)	\$ —	\$ (2,981)	\$ —
as a percentage of revenues	(169.5)%	— %	(290.6)%	— %

(a) Adjusted Amounts and Other Financial Data are non-GAAP performance measures. A reconciliation of reported amounts to adjusted amounts can be found in the "Non-GAAP Measures and Reconciliation" section of the MD&A.

Commentary on Results of Operations Comparative Results for the Three Months Ended February 28, 2022 and 2021:

Revenue:

For the three months ended February 28, 2022, hosting revenue was \$1 million, and there was no data center hosting revenue for the three months ended February 28, 2021. Hosting revenue includes upfront payments which we record as deferred revenue and generally recognize as services are provided. All of the Company's revenues were generated from its North Dakota facility which became operational on February 2, 2022.

Costs and expenses

Cost of revenues for hosting for the three months ended February 28, 2022, was \$2.1 million and there were no hosting costs for the three months ended February 28, 2021. The costs consisted primarily of electricity costs, including costs for the North Dakota facility under noncancelable purchase commitments prior to the facility becoming operational on February 2, 2022. Other costs include personnel cost for employees directly working at the hosting facility and depreciation expense for equipment in service at the hosting facility.

Selling, general and administrative expenses during the three months ended February 28, 2022 were \$1.4 million and there were no selling, general, and administrative expenses during the three months ended February 28, 2021. The 2022 costs consist of selling, general and administrative expenses consist of legal and professional fees, advertising and marketing expenses, and other personnel and related costs.

Other income and expense:

Other income for the three months ended February 28, 2022 was \$20 thousand and other expense for the three months ended February 28, 2021 was \$77 thousand. The change is primarily related to a decrease in interest expense due to the conversion of a related party note payable into Common Stock during the first fiscal quarter of the year ending May 31, 2022, as well as a gain recognized in the extinguishment of accounts payable, partially offset by an increase in income tax expense.

Commentary on Results of Operations Comparative Results for the Nine Months Ended February 28, 2022 and 2021

Revenue:

For the nine months ended February 28, 2022, hosting revenue was \$1 million, and there was no data center hosting revenue for the nine months ended February 28, 2021. Hosting revenue includes upfront payments which we record as deferred revenue and generally recognize as services are provided. All of the Company's revenues were generated from its North Dakota facility which became operational on February 2, 2022.

Costs and expenses:

Cost of revenues for hosting for the nine months ended February 28, 2022, was \$2.1 million and there were no hosting costs for the nine months ended February 28, 2021. The costs consisted primarily of electricity costs, including costs for the North Dakota facility under noncancelable purchase commitments prior to the facility becoming operational on February 2, 2022. Other costs include personnel cost for employees directly working at the hosting facility and depreciation expense for equipment in service at the hosting facility.

Selling, general and administrative expenses during the nine months ended February 28, 2022 were \$3.2 million and there were no selling, general, and administrative expenses during the nine months ended February 28, 2021. The 2022 costs consist of selling, general and administrative expenses consist of legal and professional fees, advertising and marketing expenses, and other personnel and related costs.

Stock-based compensation during nine months ended February 28, 2022 was \$12.3 million and there were no stock-based compensation costs for the nine months ended February 28, 2021. The 2022 cost was incurred as part of a service agreement for the first fiscal quarter in the year ending May 31, 2022.

Other Expenses:

Other expenses for the nine months ended February 28, 2022 was \$1.2 million and other expense for the nine months ended February 28, 2021 was \$223 thousand. The change is primarily related to a loss recognized on the extinguishment of a related party note to Common Stock during the first fiscal quarter of the year ended May 31, 2022, as well as recognition of income tax expense during 2022, partially offset by a reduction of interest expense due to the conversion of a related party note payable to Common Stock during the first fiscal quarter of the year ended May 31, 2022, and gains recognized on the extinguishment of accounts payable.

\$ in thousands	Three Months Ended		Nine Months Ended	
	February 28, 2022	February 28, 2021	February 28, 2022	February 28, 2021
Adjusted operating loss				
Operating Loss from Continuing Operations (GAAP)	\$ (2,417)	\$ —	\$ (16,632)	\$ —
Add: Stock-based compensation for service agreement	—	—	12,337	—
Add: Gain on Extinguishment of Accounts Payable	(80)	—	(405)	—
Add: Loss on Extinguishment of Debt	—	—	1,342	—
Add: Non-deferred professional service costs	433	—	1,069	—
Adjusted Operating Loss from Continuing Operations (Non-GAAP)	\$ (2,064)	\$ —	\$ (2,289)	\$ —
Adjusted operating margin from Continuing Operations	(201.2)%	— %	(223.1)%	— %
Adjusted net income (loss)				
Net Loss from Continuing Operations (GAAP)	\$ (2,397)	\$ (77)	\$ (17,843)	\$ (223)
Add: Stock-based compensation for service agreement	—	—	12,337	—
Add: Gain on Extinguishment of Accounts Payable	(80)	—	(405)	—
Add: Loss on Extinguishment of Debt	—	—	1,342	—
Add: Non-deferred professional service costs	433	—	1,069	—
Adjusted net loss from Continuing Operations (Non-GAAP)	\$ (2,044)	\$ (77)	\$ (3,500)	\$ (223)
EBITDA and Adjusted EBITDA				
Net Loss from Continuing Operations (GAAP)	\$ (2,397)	\$ (77)	\$ (17,843)	\$ (223)
Add: Interest Expense	—	77	—	223
Add: Income Tax Expense	60	—	274	—
Add: Depreciation	245	—	245	—
EBITDA (Non-GAAP)	\$ (2,092)	\$ —	\$ (17,324)	\$ —
Add: Stock-based compensation for service agreement	—	—	12,337	—
Add: Gain on Extinguishment of Accounts Payable	(80)	—	(405)	—
Add: Loss on Extinguishment of Debt	—	—	1,342	—
Add: Non-deferred professional service costs	433	—	1,069	—
Adjusted EBITDA (Non-GAAP)	\$ (1,739)	\$ —	\$ (2,981)	\$ —

EBITDA and Adjusted EBITDA

“EBITDA” is defined as earnings before interest, taxes, and depreciation and amortization. “Adjusted EBITDA” is defined as EBITDA adjusted for stock-based compensation, gain on extinguishment of accounts payable, loss on extinguishment of debt, and one-time professional service costs not directly related to the company’s offering and therefore not deferred under the guidance in ASC 340 and SAB Topic 5A. These costs

have been adjusted as they are not indicative of business operations. Adjusted EBITDA is intended as a supplemental measure of Applied Blockchain's performance that is neither required by, nor presented in accordance with, GAAP. Applied Blockchain believes that the use of EBITDA and Adjusted EBITDA provides an additional tool for investors to use in evaluating ongoing operating results and trends and in comparing its financial measures with those of comparable companies, which may present similar non-GAAP financial measures to investors. However, you should be aware that when evaluating EBITDA and Adjusted EBITDA, Applied Blockchain may incur future expenses similar to those excluded when calculating these measures. In addition, Applied Blockchain's presentation of these measures should not be construed as an inference that its future results will be unaffected by unusual or non-recurring items. Applied Blockchain's computation of Adjusted EBITDA may not be comparable to other similarly titled measures computed by other companies, because all companies may not calculate Adjusted EBITDA in the same fashion.

Because of these limitations, EBITDA and Adjusted EBITDA should not be considered in isolation or as a substitute for performance measures calculated in accordance with GAAP. Applied Blockchain compensates for these limitations by relying primarily on its GAAP results and using EBITDA and Adjusted EBITDA on a supplemental basis. You should review the reconciliation of net loss to EBITDA and Adjusted EBITDA below and not rely on any single financial measure to evaluate Applied Blockchain's business.

The Sources of Liquidity

We have generated cash from the sale of our convertible preferred stock, the sale of Ether generated from our discontinued mining operations, and the receipt of contractual deposits and revenue pre-payments from hosting customers. Since December 2020, when we began planning to acquire or build an operational business, we have raised aggregate gross proceeds of \$49 million from issuances of our convertible preferred stock. On April 15, 2021, we received \$16.5 million in gross proceeds from the issuance of our Series C Convertible Redeemable Preferred Stock and on July 30, 2021, we received \$32.5 million in gross proceeds from the issuance of our Series D Preferred Stock. On April 18, 2022, we received \$40.0 million in gross proceeds from the issuance of 8 million shares of the Company's Common Stock in conjunction with the closing of our initial public offering. During fiscal year 2021, we did not generate any revenue from crypto mining, co-hosting or otherwise. We have incurred net losses from operations. In June 2021, as a result of commencement of our crypto mining operations, we began to generate revenue. As of February 28, 2022 and May 31, 2021, we had cash of \$12 million and \$11.8 million respectively, and an accumulated deficit of \$(52.5) million and \$21.6 million, respectively. On March 11, 2022, we entered into a term loan agreement for \$7.5 million for a term of five years with an interest rate of 5% per annum. The proceeds of the term loan will be used for working capital needs for the operation of Phase I of the hosting facility in Jamestown, North Dakota.

Funding Requirements

Having ceased our prior operations in 2014, we have experienced net losses until the first quarter of our fiscal year ending May 31, 2022, with net losses also having been incurred in the second and third quarters of our fiscal year ending May 31, 2022. Our transition to sustained profitability is dependent on successful operation of our co-hosting facilities. We believe that amounts we received from our April 2021 and July 2021 sales of convertible preferred stock, from our crypto mining operations, prior to cessation of such operations on March 9, 2022, proceeds from our initial public offering, and revenue we have begun to achieve in our co-hosting operations since our first co-hosting facility was brought online as to 55MW on February 2, 2022, after planned expenditures to build our co-hosting operations, will be sufficient to meet our working capital needs for at least the next 12 months.

We expect that our general and administrative expenses and our operating expenditures will continue to increase as we continue to expand our operations and as we bear the costs of being a public company. We also expect that our revenues will increase as we continue to bring online additional capacity, including the remaining 45MW of capacity at our first operational co-hosting facility. We expect to need additional capital to fund continued growth, which we may obtain through one or more equity offerings, debt financings or other third-

party funding. Because of the numerous risks and uncertainties associated with the crypto mining industry, we are unable to estimate the amount of increased capital we may need to raise to continue to build additional co-hosting facilities and we may use our available capital sooner than we currently expect.

We believe that our existing cash, together with the anticipated revenues from current operations, will enable us to fund our operating expense requirements through at least 12 months. We have based our estimates as to how long we expect we will be able to fund our operations on assumptions that may prove to be wrong, and we could use our available capital resources sooner than we currently expect, in which case, we would be required to obtain additional financing sooner than currently projected, which may not be available to us on acceptable terms, or at all. Our failure to raise capital as and when needed would have a negative impact on our financial condition and our ability to pursue our business strategy.

Summary of Cash Flows

The following table provides information about Applied Blockchain's net cash flow (in thousands) for the nine months ended February 28, 2022 and 2021.

\$ in thousands	Nine Months Ended February 28,	
	2022	2021
Net cash provided by operating activities	\$ 4,113	\$ —
Net cash used in investing activities	(35,588)	\$ —
Net cash provided by financing activities	31,686	\$ —
Net change in cash and cash equivalents	211	\$ —
Cash and cash equivalents at beginning of year	11,750	\$ —
Cash and cash equivalents at end of period	\$ 11,961	\$ —

The net cash generated by operating activities of \$4.1 million for the nine months ended February 28, 2022 consisted primarily of \$12.3 million of non-cash compensation for service agreement expenses, an increase of \$10.7 million of accounts payable and accrued liabilities, \$1.3 million gain on the extinguishment of debt, and \$1 million provided by discontinued operations, partially offset by a net loss from continuing operations of \$17.8 million, increases in accounts receivable of \$1 million, and increases in prepaid expenses and other current assets of \$2.1 million.

The net cash used in investing activities for the nine months ended February 28, 2022 represents deposits on mining equipment and purchases of property and equipment.

The net cash provided by financing activities for the nine months ended February 28, 2022 represents proceeds from issuance of our Series D Preferred Stock.

For the nine months ended February 28, 2021 there was no cash used by operating activities, investing activities and financing activities.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

Not Applicable

Item 4. Controls and Procedures

Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, evaluated, as of the end of the period covered by this Quarterly Report on Form 10-Q, the effectiveness of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act). Based on that evaluation, and as a result of the material weaknesses described below, our Chief Executive Officer and Chief

Financial Officer concluded that, as of February 28, 2022, our disclosure controls and procedures were not effective at the reasonable assurance level.

A material weakness is a deficiency, or combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of a company's annual and interim financial statements will not be detected or prevented on a timely basis.

In connection with our initial public offering, we identified a material weakness in the design of our internal controls, which could adversely affect our ability to record, process, summarize and report financial data. We have not yet designed and implemented user access controls to ensure appropriate segregation of duties that would adequately restrict user and privileged access to the financially relevant systems and data to appropriate personnel. We also do not have a properly designed internal control system that identifies critical processes and key controls.

In order to remediate these material weaknesses, we are taking the following steps, among others:

1. continued hiring of additional qualified accounting and financial reporting personnel to support division of responsibilities;
2. improving and updating our systems;
3. developing IT general controls to manage access and program changes across our key systems and the execution of improvements to application controls within our systems; and
4. implementing processes and controls to better identify and manage segregation of duties.

We will not be able to fully remediate the material weaknesses until these steps have been completed and have been operating effectively for a sufficient period of time.

Part II - Other Information

Item 1. Legal Proceedings

None

Item 1A. Risk Factors

There have been no material changes to the Risk Factors disclosed in the final prospectus of our Registration Statement on Form S-1 (Reg. No. 333-261278) filed with the SEC on April 13, 2022.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

On April 12, 2022, the SEC declared effective the Company's IPO Registration Statement (Reg. No. 261278). The offering under the IPO Registration Statement commenced on April 12, 2022 and was consummated on April 18, 2022 with the sale of 8,000,000 newly-issued shares of Common Stock at a price of \$5.00 per share, constituting the total aggregate amount registered. B. Riley Securities, Inc. and Needham & Company acted as book-running managers, Craig-Hallum and D.A. Davidson & Co. acted as lead managers, and Lake Street and Northland Capital Markets acted as co-managers for the offering. In connection with the offering, the Company granted the underwriters a 30-day option to purchase up to an additional 1,200,000 shares of common stock at the public offering price, less underwriting discounts and commission, although such option was not exercised. Through the date of this Quarterly Report on Form 10-Q, estimated total expenses of the offering were approximately \$4 million, consisting of \$2.8 million in underwriting discounts and commissions, approximately \$400 thousand in expenses paid to the underwriters, and approximately \$800 thousand in other expenses including legal, auditor, listing, and other expenses. No such payments were made to officers directors or associates of the Company except that, with respect to underwriting discounts and commissions and expenses to the underwriters, (a) Wes Cummins, the Company's CEO and Chairman, sold, in 2021, a majority interest in 272 Capital LP, a registered investment adviser controlled by him, to B. Riley Financial, Inc., an affiliate of B. Riley Securities, Inc., (b) Wes Cummins is the CEO and President of B. Riley Capital Management, LLC, an affiliate of B. Riley Securities, Inc., (c) Chuck Hastings, CEO of B. Riley Wealth Management, Inc., serves on the Company's board of directors, and (d) Virginia Moore, a member of the Company's Board of Directors, is the spouse of the CEO of B. Riley Securities, Inc. The net offering proceeds to the Company after deducting the expenses described herein were approximately \$36 million. None of the proceeds were received by the Company during the quarter ended February 28, 2022.

Item 3. Defaults Upon Senior Securities

Not applicable.

Item 4. Mine Safety Disclosures

Not applicable.

Item 5. Other Information

None.

Item 6. Exhibits

EXHIBIT INDEX

Exhibit Number	Description of Document
3.1	Second Amended and Restated Articles of Incorporation, as amended from time to time.
31.1	Chief Executive Officer's Certificate Pursuant to 15 U.S.C. Section 7241, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Chief Financial Officer's Certificate Pursuant to 15 U.S.C. Section 7241, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1	Certification of Chief Executive Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2	Certification of Chief Financial Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101.INS	Inline XBRL Instance Document.
101.SCH	Inline XBRL Taxonomy Extension Schema Document.
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document.
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document.
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document.
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document.
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101).

Signatures

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

APPLIED BLOCKCHAIN, INC.

Date: May 13, 2022

By: /s/ Wesley Cummins
Wesley Cummins Chief Executive Officer and Chairman of
the Board of Directors (Principal Executive Officer)

Date: May 13, 2022

By: /s/ David Rench
David Rench Chief Financial Officer (Principal Financial
Officer)



BARBARA K. CEGAVSKE
 Secretary of State
 202 North Carson Street
 Carson City, Nevada 89701-4201
 (775) 684-5708
 Website: www.nvsos.gov

Filed in the Office of <i>Barbara K. Cegavske</i>	Business Number C13283-2001
Secretary of State State Of Nevada	Filing Number 2022245441
	Filed On 4/12/2022 9:06:00 AM
	Number of Pages 1

Certificate of Change Pursuant to NRS 78.209

TYPE OR PRINT - USE DARK INK ONLY - DO NOT HIGHLIGHT

INSTRUCTIONS:

1. Enter the current name as on file with the Nevada Secretary of State and enter the Entity or Nevada Business Identification Number (NVID).
2. Indicate the current number of authorized shares and par value, if any, and each class or series before the change.
3. Indicate the number of authorized shares and par value, if any of each class or series after the change.
4. Indicate the change of the affected class or series of issued, if any, shares after the change in exchange for each issued share of the same class or series.
5. Indicate provisions, if any, regarding fractional shares that are affected by the change.
6. NRS required statement.
7. This section is optional. If an effective date and time is indicated the date must not be more than 90 days after the date on which the certificate is filed.
8. Must be signed by an Officer. Form will be returned if unsigned.

1. Entity Information:	Name of entity as on file with the Nevada Secretary of State: <div style="border: 1px solid black; padding: 2px; width: 80%;">Applied Blockchain, Inc.</div> Entity or Nevada Business Identification Number (NVID): <div style="border: 1px solid black; padding: 2px; width: 80%;">C13283-2001</div>
2. Current Authorized Shares:	The current number of authorized shares and the par value, if any, of each class or series, if any, of shares before the change: <small>Number of Common Stock: 1,000,000,000, par value \$0.001 Number of Series A Preferred Stock: 70,000, par value \$0.001 Number of Series B Preferred Stock: 50,000, par value \$0.001 Number of Series C Preferred Stock: 660,000, par value \$0.001 Number of Series D Preferred Stock: 1,380,000, par value \$0.001</small>
3. Authorized Shares After Change:	The number of authorized shares and the par value, if any, of each class or series, if any, of shares after the change: <small>Number of Common Stock: 166,666,666, par value \$0.001 Number of Series A Preferred Stock: 70,000, par value \$0.001 Number of Series B Preferred Stock: 50,000, par value \$0.001 Number of Series C Preferred Stock: 660,000, par value \$0.001 Number of Series D Preferred Stock: 1,380,000, par value \$0.001</small>
4. Issuance:	The number of shares of each affected class or series, if any, to be issued after the change in exchange for each issued share of the same class or series: <small>(1) Reverse Stock Split of all authorized common stock; 1 share for each 6 authorized. 1,000,000,000 shares of common stock were authorized, leaving 166,666,666 shares authorized after the reverse stock split. (2) A corresponding Reverse Stock Split of all issued and outstanding common stock; 1 share for each 6 issued and outstanding. 547,230,709 shares of common stock were issued and outstanding, leaving 91,205,023 shares outstanding after the reverse stock split.</small>
5. Provisions:	The provisions, if any, for the issuance of fractional shares, or for the payment of money or the issuance of scrip to stockholders otherwise entitled to a fraction of a share and the percentage of outstanding shares affected thereby: No fractional shares will be issued. All fractional shares as a result of the reverse split will be paid out in cash.
6. Provisions:	The required approval of the stockholders has been obtained.
7. Effective date and time: (Optional)	Date: April 12, 2022 Time: 1:15 PM Pacific Time <small>(must not be later than 90 days after the certificate is filed)</small>
8. Signature: (Required)	X <u><i>Johnny Carson</i></u> Chief Executive Officer 3-11-2022

Signature of Officer

Title

Date

This form must be accompanied by appropriate fees.
If necessary, additional pages may be attached to this form.

Page 1 of 1
Revised: 1/1/2019



BARBARA K. CEGAVSKE
 Secretary of State
 202 North Carson Street
 Carson City, Nevada 89701-4201
 (775) 684-5708
 Website: www.nvsos.gov

Filed in the Office of <i>Barbara K. Cegavske</i>	Business Number C13283-2001
Secretary of State State Of Nevada	Filing Number 20211673333
	Filed On 7/28/2021 10:57:00 AM
	Number of Pages 2

Certificate of Correction

NRS 78, 78A, 80, 81, 82, 84, 86, 87, 87A, 88, 88A, 89 and 92A

(Only one document may be corrected per certificate.)

TYPE OR PRINT - USE DARK INK ONLY - DO NOT HIGHLIGHT

INSTRUCTIONS:

1. Enter the current name as on file with the Nevada Secretary of State and enter the Entity or Nevada Business Identification Number (NVID).
2. Name of document with inaccuracy or defect.
3. Filing date of document with inaccuracy or defect.
4. Brief description of inaccuracy or defect.
5. Correction of inaccuracy or defect.
6. Must be signed by Authorized Signer. Form will be returned if unsigned.

1. Entity Information:	Name of entity as on file with the Nevada Secretary of State: Applied Blockchain, Inc. Entity or Nevada Business Identification Number (NVID): C13283-2001
2. Document:	Name of document with inaccuracy or defect: Second Amended and Restated Articles of Incorporation
3. Filing Date:	Filing date of document which correction is being made: April 15, 2021
4. Description:	Description of inaccuracy or defect: Section 1.1(c)(ii)(B) of Exhibit C to the Second Amended and Restated Articles of Incorporation contains an incorrect reference in the first sentence of the paragraph.
5. Correction:	Correction of inaccuracy or defect: Section 1.1(c)(ii)(B) of Exhibit C to the Second Amended and Restated Articles of Incorporation is corrected to remove the reference (12) twelve months and change it to (8) eight months.
6. Signature: (Required)	DocuSigned by: X David Rende 07/28/2021

A/0001U/0410400...
Signature

Date

This form must be accompanied by appropriate fees.

Page 1 of 1
Revised: 1/1/2019



BARBARA K. CEGAVSKE
Secretary of State
202 North Carson Street
Carson City, Nevada 89701-4201
(775) 684-5708
Website: www.nvsos.gov

Filed in the Office of <i>Barbara K. Cegavske</i>	Business Number C13283-2001
Secretary of State State Of Nevada	Filing Number 20211638120
	Filed On 7/28/2021 9:49:00 AM
	Number of Pages 1

Certificate of Amendment
(PURSUANT TO NRS 78.385 AND 78.390)

USE BLACK INK ONLY - DO NOT HIGHLIGHT

ABOVE SPACE IS FOR OFFICE USE ONLY

Certificate of Amendment to Articles of Incorporation
For Nevada Profit Corporations
(Pursuant to NRS 78.385 and 78.390 - After Issuance of Stock)

1. Name of corporation:

APPLIED BLOCKCHAIN, INC.

2. The articles have been amended as follows: (provide article numbers, if available)

THIRD. The total number of shares of capital stock which this corporation shall have authority to issue is one billion, five million (1,005,000,000) with a par value of \$0.001 per share amounting to \$1,005,000.00. One billion (1,000,000,000) of those shares are Common Stock and five million (5,000,000) of those shares are Preferred Stock. Each share of Common Stock shall entitle the holder thereof to one vote, in person or by proxy, on any matter on which action of the stockholders of this corporation is sought. The holders of shares of Preferred Stock shall have no right to vote such shares, except (i) as determined by the Board of Directors of this corporation in accordance with the provisions of Section (3) of Article FOURTH of these Articles of Incorporation, or (ii) as otherwise provided by the Nevada General Corporation Law, as amended from time to time.

3. The vote by which the stockholders holding shares in the corporation entitling them to exercise at least a majority of the voting power, or such greater proportion of the voting power as may be required in the case of a vote by classes or series, or as may be required by the provisions of the articles of incorporation* have voted in favor of the amendment is:

4. Effective date and time of filing: (optional) Date: Time:

(must not be later than 90 days after the certificate is filed)

5. Signature: (required)

DocuSigned by:
X *Wes Cummins*
Signature of Officer

*If any proposed amendment would alter or change any preference or any relative or other right given to any class or series of outstanding shares, then the amendment must be approved by the vote, in addition to the affirmative vote otherwise required, of the holders of shares representing a majority of the voting power of each class or series affected by the amendment regardless to limitations or restrictions on the voting power thereof.

IMPORTANT: Failure to include any of the above information and submit with the proper fees may cause this filing to be rejected.

This form must be accompanied by appropriate fees.

Nevada Secretary of State Amend Profit-After
Revised: 1-5-15



BARBARA K. CEGAVSKE
 Secretary of State
 202 North Carson Street
 Carson City, Nevada 89701-4201
 (775) 684-5708
 Website: www.nvsos.gov

Filed in the Office of <i>Barbara K. Cegavske</i>	Business Number C13283-2001
Secretary of State State Of Nevada	Filing Number 20211638141
	Filed On 7/28/2021 9:49:00 AM
	Number of Pages 19

Certificate, Amendment or Withdrawal of Designation

NRS 78.1955, 78.1955(6)

- Certificate of Designation
- Certificate of Amendment to Designation - Before Issuance of Class or Series
- Certificate of Amendment to Designation - After Issuance of Class or Series
- Certificate of Withdrawal of Certificate of Designation

TYPE OR PRINT - USE DARK INK ONLY - DO NOT HIGHLIGHT

1. Entity information:	Name of entity: Applied Blockchain, Inc.
	Entity or Nevada Business Identification Number (NVID): C13283-2001
2. Effective date and time:	For Certificate of Designation or Amendment to Designation Only (Optional): Date: _____ Time: _____ (must not be later than 90 days after the certificate is filed)
3. Class or series of stock: (Certificate of Designation only)	The class or series of stock being designated within this filing: Series D Preferred Stock
4. Information for amendment of class or series of stock:	The original class or series of stock being amended within this filing:
5. Amendment of class or series of stock:	<input type="checkbox"/> Certificate of Amendment to Designation- Before Issuance of Class or Series As of the date of this certificate no shares of the class or series of stock have been issued. <input type="checkbox"/> Certificate of Amendment to Designation- After Issuance of Class or Series The amendment has been approved by the vote of stockholders holding shares in the corporation entitling them to exercise a majority of the voting power, or such greater proportion of the voting power as may be required by the articles of incorporation or the certificate of designation.
6. Resolution: Certificate of Designation and Amendment to Designation only)	By resolution of the board of directors pursuant to a provision in the articles of incorporation this certificate establishes OR amends the following regarding the voting powers, designations, preferences, limitations, restrictions and relative rights of the following class or series of stock.* See Exhibit A attached hereto for Certificate of Designations for Series D Preferred Stock.
7. Withdrawal:	Designation being Withdrawn: _____ Date of Designation: _____ No shares of the class or series of stock being withdrawn are outstanding. The resolution of the board of directors authorizing the withdrawal of the certificate of designation establishing the class or series of stock: * _____ <small>DocuSigned by:</small> _____ <small>C13283-2001</small> Signature of Officer
8. Signature: (Required)	<input checked="" type="checkbox"/> <i>Wes Cummins</i> Date: 7/28/2021

* Attach additional page(s) if necessary
This form must be accompanied by appropriate fees.

Page 1 of 1
Revised: 1/1/2019

**CERTIFICATE OF DESIGNATIONS
OF THE POWERS, PREFERENCES AND
RELATIVE, PARTICIPATING, OPTIONAL AND OTHER RESTRICTIONS

OF SERIES D PREFERRED STOCK

OF APPLIED BLOCKCHAIN, INC.**

Applied Blockchain, Inc. (the "Corporation"), pursuant to the provisions of Sections 78.195 and 78.1955 of the General Corporation Law of the State of Nevada, does hereby make this Certificate of Designations of the Powers, Preferences and Relative, Participating, Optional and Other Restrictions, does hereby state and certify that pursuant to the authority expressly vested in the Board of Directors of the Corporation by the provisions of Article FOURTH of the Second Amended and Restated Articles of Incorporation of the Corporation (the "*Articles*"), the Board of Directors of the Corporation duly adopted resolutions authorizing the issuance of 1,380,000 shares of preferred stock, par value \$0.001 per share, and fixing the designation and preferences and relative, participating, optional and other special rights, and qualifications, limitations and restrictions, of a series of preferred stock to be designated "Series D Convertible Redeemable Preferred Stock," as further described below (the "*Series D Designation*"). The Series D Designation shall be in full force and effect as of the date hereof.

Section 1.1 Designation. As of the effective date of this Certificate, there is hereby created out of the authorized preferred stock of the Corporation a series of preferred stock designated as "Series D Convertible Redeemable Preferred Stock" (the "*Series D Preferred Stock*"), par value \$0.001 per share. The Series D Preferred Stock shall, with respect to dividend rights or rights upon a liquidation, winding-up or dissolution of the Corporation, rank *pari passu* with the Series C Convertible Redeemable Preferred Stock (the "*Series C Preferred Stock*", and together with the Series D Preferred Stock, the "*Preferred Stock*"). The following rights, powers and privileges, and restrictions, qualifications and limitations, shall apply to the Series D Preferred Stock.

(a) Liquidation, Dissolution or Winding Up; Certain Mergers, Consolidations and Asset Sales.

(i) Payments to Holders of Series D Preferred Stock. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation or any Deemed Liquidation Event (as defined below), before any payment shall be made to the holders of the Common Stock by reason of their ownership thereof, the holders of shares of Series D Preferred Stock then outstanding shall be entitled to be paid out of the funds and assets available for distribution to the stockholders of the Corporation, an amount per share equal to the Stated Value (as defined below) for such share of Series D Preferred Stock, plus an amount per share equal to the Stated Value of any shares of Series D Preferred Stock that are issuable as the result of accrued, but unpaid, PIK Dividends (as defined below). If upon any such liquidation, dissolution or winding up or Deemed Liquidation Event of the Corporation, the funds and assets available for distribution to the stockholders of the Corporation shall be insufficient to pay the holders of shares of Series D Preferred Stock the full amount to which they are entitled under this Section 1.1(a)(i) and the holders of Series C Preferred Stock the full amount to which they are entitled under the Certificate of Designations of the Powers, Preferences and Relative, Participating, Optional and Other

Restrictions of Series C Preferred Stock, the holders of shares of Series D Preferred Stock and Series C Preferred Stock shall share ratably in any distribution of the funds and assets available for distribution in proportion to the respective amounts that would otherwise be payable in respect of the shares of Series D Preferred Stock and Series C Preferred Stock held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full. The "*Stated Value*" shall mean Twenty-Five United States Dollars and No Cents (\$25.00) per share, subject to an equitable adjustment for stock splits, stock combinations, recapitalizations and similar transactions.

(ii) Payments to Holders of Common Stock. In the event of any voluntary or involuntary liquidation, dissolution or winding up or Deemed Liquidation Event of the Corporation, after the payment of all preferential amounts required to be paid to the holders of shares of Series D Preferred Stock and Series C Preferred Stock as provided in Section 1.1(a)(i), the remaining funds and assets available for distribution to the stockholders of the Corporation shall be distributed among the holders of shares of Common Stock, pro rata based on the number of shares of Common Stock held by each such holder.

(iii) Deemed Liquidation Events.

(A) Definition. Each of the following events shall be considered a "*Deemed Liquidation Event*" unless the holders of at least a majority of the outstanding shares of Series D Preferred Stock (voting as a single class on an as-if converted to Common Stock basis) (the "*Requisite Holders*") elect otherwise by written notice sent to the Corporation at least five (5) days prior to the effective date of any such event:

(1) a merger or consolidation in which (I) the Corporation is a constituent party or (II) a subsidiary of the Corporation is a constituent party and the Corporation issues shares of its capital stock pursuant to such merger or consolidation, except any such merger or consolidation involving the Corporation or a subsidiary in which the shares of capital stock of the Corporation outstanding immediately prior to such merger or consolidation continue to represent, or are converted into or exchanged for equity securities that represent, immediately following such merger or consolidation, at least a majority, by voting power, of the equity securities of (x) the surviving or resulting party or (y) if the surviving or resulting party is a wholly owned subsidiary of another party immediately following such merger or consolidation, the parent of such surviving or resulting party; *provided* that, for the purpose of this Section 1.1(a)(iii)(A), all shares of Common Stock issuable upon exercise of options outstanding immediately prior to such merger or consolidation or upon conversion of Convertible Securities (as defined below) outstanding immediately prior to such merger or consolidation shall be deemed to be outstanding immediately prior to such merger or consolidation and, if applicable, deemed to be converted or exchanged in such merger or consolidation on the same terms as the actual outstanding shares of Common Stock are converted or exchanged; or

(2) the sale, lease, transfer or other disposition, in a single transaction or series of related transactions, by the Corporation or any subsidiary of the Corporation of all or substantially all the assets of the Corporation and its subsidiaries taken as a whole, or, if substantially all of the assets of the Corporation and its subsidiaries taken as a whole are held by such subsidiary or subsidiaries, the sale or disposition (whether by merger or otherwise)

of one or more subsidiaries of the Corporation, except where such sale, lease, transfer or other disposition is to the Corporation or one or more wholly owned subsidiaries of the Corporation.

Notwithstanding the foregoing, a Significant Transaction Event (as defined below) shall not be considered a voluntary or involuntary liquidation, dissolution or winding up of the Corporation or a Deemed Liquidation Event. A "*Significant Transaction Event*" means (i) a merger or other business combination designed to increase the number of stockholders of the Corporation in order to facilitate a listing on a Trading Market (as such term is defined in that certain Registration Rights Agreement, dated as of July 28, 2021, by and between the Corporation and B. Riley Securities, Inc., as the placement agent ("*B. Riley*"), for the benefit of B. Riley and the holders of Series D Preferred Stock (the "*Registration Rights Agreement*"), (ii) a business combination with a special purpose acquisition company that results in the Corporation's securities being listed for trading on a Trading Market, or (iii) a business combination with a company that is listed on a Trading Market that results in the Corporation's securities being listed for trading on a Trading Market.

(B) Public Offering or Listing Facilitation Transaction. Under no circumstances shall a public offering of the Corporation's securities, including a public offering that results in a change of control of the Corporation, designed to increase the number of stockholders of the Corporation in order to facilitate a listing on a Trading Market (as such term is defined in the Registration Rights Agreement) be considered a voluntary or involuntary liquidation, dissolution or winding up of the Corporation or a Deemed Liquidation Event.

(C) Allocation of Escrow. In the event of a Deemed Liquidation Event pursuant to Section 1.1(a)(iii)(A)(1)(I), if any portion of the consideration payable to the stockholders of the Corporation is placed into escrow, the definitive agreement for such transaction shall provide that the portion of such consideration that is placed in escrow shall be allocated among the holders of capital stock of the Corporation pro rata based on the amount of such consideration otherwise payable to each stockholder (such that each stockholder has placed in escrow the same percentage of the total consideration payable to such stockholder as every other stockholder).

(D) Amount Deemed Paid or Distributed. The funds and assets deemed paid or distributed to the holders of capital stock of the Corporation upon any such merger, consolidation, sale, transfer or other disposition described in this Section 1.1(a)(iii) shall be the cash or the value of the property, rights or securities paid or distributed to such holders by the Corporation or the acquiring person, firm or other entity. The value of such property, rights or securities shall be determined in good faith by the Board of Directors of the Corporation.

(b) Voting. Holders of shares of Series D Preferred Stock shall vote together with holder of Series C Preferred Stock and holders of Common Stock on an as-if converted to Common Stock basis on any matters coming before the stockholders of the Corporation for a vote. Notwithstanding the foregoing, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation, recapitalization, reclassification, or otherwise, do any of the following without (in addition to any other vote required by law or this Certificate) the written consent or affirmative vote of the Requisite Holders given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class, and any such act or transaction entered into without such consent or vote shall be null and void ab initio, and of no force or effect:



(i) materially change the principal business of the Corporation unless in connection with a Significant Transaction Event; or

(ii) except in connection with a Significant Transaction Event, sell, lease, transfer, exclusively license or otherwise dispose (in a single transaction or series of related transactions) of all or substantially all of the assets of the Corporation or permit any direct or indirect subsidiary to do so; provided, however, that no consent or vote of the Requisite Holders shall be required in connection with sales of mining equipment in the ordinary course of the Corporation's business and in a manner consistent with the principal business of the Corporation.

(c) Dividends.

(i) Dividends Generally. The holders of shares of Series D Preferred Stock shall be entitled to receive, and the Corporation shall pay, dividends on shares of Series D Preferred Stock equal (on an as-if converted to Common Stock basis) to and in the same form as dividends actually paid on shares of the Common Stock when, as and if such dividends are paid on shares of the Common Stock. Except as set forth in this Section 1.1(c)(i) and for PIK Dividends (as defined below), no other dividends shall be paid on shares of Series D Preferred Stock.

(ii) PIK Dividends. The Corporation shall be required to pay a dividend in fully paid and non-assessable shares of Series D Preferred Stock (each a "*PIK Dividend*" and, collectively, the "*PIK Dividends*") equal to the percentage of Stated Value set forth below upon the occurrence of each of the following events:

(A) Failure to File. If the Corporation has not filed or confidentially submitted a registration statement (the "*Registration Statement*") to register the shares of Common Stock issuable upon conversion of the Series D Preferred Stock (the "*Registrable Securities*") on or before August 15, 2021, the Corporation shall accrue daily a PIK Dividend equal to ten percent (10%) per annum of Stated Value;

(B) Failure to be Declared Effective and to List. If the Registration Statement has not been declared effective by the U.S. Securities and Exchange Commission (the "*SEC*") on or before December 15, 2021 and/or the Registrable Securities are not listed on a Trading Market on or before December 15, 2021, the Corporation shall accrue daily a PIK Dividend of twelve percent (12%) per annum of Stated Value, or fifteen percent (15%) per annum of Stated Value for each day such failure continues after October 15, 2022. Such PIK Dividend shall be instead of, and not in addition to, any PIK Dividend also accruing under Section 1.1(c)(ii)(A); and

(C) Mandatory Redemption Failure. If the Corporation fails to complete a Mandatory Redemption (as defined below) when required to do so, it shall continue to pay a PIK Dividend in accordance with Section 1.1(c)(ii)(B).

The PIK Dividends shall be paid by delivering to each record holder of Series D Preferred Stock a number of shares of Series D Preferred Stock determined by dividing (x) the total aggregate dollar amount of dividends accrued and unpaid with respect to Series D Preferred Stock owned by such record holder (rounded to the nearest whole cent) by (y) the Stated Value.



Notwithstanding the foregoing, PIK Dividends shall cease cumulating and accruing upon the earliest to occur of (1) the date of the satisfaction of the conditions set forth in Section 1.1(c)(ii)(A), Section 1.1(c)(ii)(B) and Section 1.1(c)(ii)(C) that gave rise to such PIK Dividend (any such date, a "**PIK Dividend Satisfaction Date**"), and (2) any Conversion Date (as defined below) or Optional Conversion Date (as defined below). Upon a simultaneous or consecutive occurrence of two or more events that trigger the accrual of PIK Dividends on one or more days, PIK Dividends shall accrue on each issued and outstanding share of Series D Preferred Stock as if only one triggering event had occurred, such that the accrual of PIK Dividends in accordance with this Section 1.1(c)(ii) shall not be doubled, tripled or otherwise multiplied due to the existence of multiple events causing the accrual of PIK Dividends.

Notwithstanding the foregoing, (I) if on or prior to October 15, 2021, the Corporation enters into a binding definitive agreement or binding instrument relating to a Significant Transaction Event (a "**Definitive Instrument**"), then the Corporation shall have no obligation to pay any PIK Dividends accrued or payable through such date, and (II) if the Corporation has entered into a Definitive Instrument on or prior to October 15, 2021 and has consummated the Significant Transaction Event on or prior to February 15, 2022, then the Corporation shall have no obligation to pay any PIK Dividends accrued or payable through such date.

(d) Automatic Conversion.

(i) Trigger Event. On the Conversion Date (as defined below), each share of Series D Preferred Stock shall be automatically converted (without the payment of additional consideration by the holder thereof), into such number of fully paid and non-assessable shares of Common Stock as is determined by dividing the Stated Value by the Conversion Price in effect on the Conversion Date. The "**Conversion Price**" shall be a price per share equal to the least of: (w) \$0.44 per share, (x) 75% of the price per share to be sold in the Corporation's Qualified Offering, (y) 75% of the opening public price per share in a direct listing of the Corporation's Common Stock on a Trading Market (a "**Direct Listing**") or (z) 75% of the per share amount to be paid for each share of the Corporation's Common Stock in a sale of all or substantially all of the stock or assets of the Company (a "**Merger**"), in each case subject to adjustment as provided herein. For purposes hereof, "**Conversion Date**" means (A) the date that the Registration Statement is declared effective by the SEC, (B) the date on which the Corporation consummates a Direct Listing or Qualified Offering or (C) the date on which a Merger is consummated. For purposes hereof, "**Qualified Offering**" means the first underwritten public offering of Common Stock by the Corporation to occur after the initial issuance of Series D Preferred Stock (the "**Original Issue Date**").

(ii) Mechanics of Conversion. All holders of record of Series D Preferred Stock shall be sent written notice of the Conversion Date and the place designated for conversion of all such shares of Series D Preferred Stock pursuant to this Section 1.1(d). Such notice need not be sent in advance of the occurrence of the Conversion Date. Upon receipt of such notice, each holder of Series D Preferred Stock shall, if such holder's shares are certificated, surrender his, her or its certificate or certificates for all such shares (or, if such holder of Series D Preferred Stock alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation and its transfer agent to indemnify the Corporation and/or its transfer agent against any claim that may be made against the Corporation and/or its transfer agent

on account of the alleged loss, theft or destruction of such certificate) to the Corporation at the place designated in such notice. If so required by the Corporation or its transfer agent, any certificates surrendered for conversion shall be endorsed or accompanied by written instrument or instruments of transfer, in form satisfactory to the Corporation or its transfer agent, duly executed by the registered holder of shares of Series D Preferred Stock or by his, her or its attorney duly authorized in writing. All rights with respect to the Series D Preferred Stock converted pursuant to this Section 1.1(d) will terminate at the Conversion Date (notwithstanding the failure of the holder or holders of Series D Preferred Stock to surrender any certificates at or prior to such time), except only for the rights of the holders of Series D Preferred Stock, upon surrender, if applicable, of their certificate or certificates (or lost certificate affidavit and agreement), to receive the items provided for in the next sentence of this Section 1.1(d)(ii). As soon as practicable after the Conversion Date and, if applicable, the surrender of the certificate or certificates (or lost certificate affidavit and agreement) for Series D Preferred Stock, the Corporation shall issue and deliver to such holder of Series D Preferred Stock, or to his, her or its nominees, a notice of issuance of uncertificated shares and, may, upon written request, issue and deliver a certificate or certificates for the number of full shares of Common Stock issuable on such conversion in accordance with the provisions hereof. Such converted Series D Preferred Stock shall be retired and cancelled and may not be reissued as shares of such series, and the Corporation may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of its Preferred Stock accordingly.

(iii) Reservation of Shares Issuable Upon Conversion. The Corporation covenants that it will at all times reserve and keep available out of its authorized and unissued shares of Common Stock for the sole purpose of issuance upon conversion of the Series D Preferred Stock as herein provided, free from preemptive rights or any other actual contingent purchase rights of persons other than the holders of Series D Preferred Stock, not less than such aggregate number of shares of the Common Stock as shall be issuable (taking into account the adjustments and restrictions of Section 1.1(d)) upon the conversion of the then outstanding shares of Series D Preferred Stock. The Corporation covenants that all shares of Common Stock that shall be so issuable shall, upon issue, be duly authorized, validly issued, fully paid and nonassessable.

(iv) Fractional Shares. No fractional shares or scrip representing fractional shares shall be issued upon the conversion of the Series D Preferred Stock. As to any fraction of a share which the holder of shares of Series D Preferred Stock would otherwise be entitled to purchase upon such conversion, the Corporation shall round up to the next whole share.

(v) Transfer Taxes and Expenses. The issuance of shares of Common Stock on conversion of the Series D Preferred Stock shall be made without charge to any holder of Series D Preferred Stock for any documentary stamp or similar taxes that may be payable in respect of the issue or delivery of such shares of Common Stock, provided that the Corporation shall not be required to pay any tax that may be payable in respect of any transfer involved in the issuance and delivery of any such shares of Common Stock upon conversion in a name other than that of the holders of the Series D Preferred Stock of such shares of Series D Preferred Stock and the Corporation shall not be required to issue or deliver such shares of Common Stock unless or until the person or persons requesting the issuance thereof shall have paid to the Corporation the amount of such tax or shall have established to the satisfaction of the Corporation that such tax has been paid. The Corporation shall pay all transfer agent fees required for same-day processing and all fees to the



Depository Trust Company (or another established clearing corporation performing similar functions) required for same-day electronic delivery of the shares of Common Stock.

(vi) Adjustments to Conversion Price for Diluting Issues.

(A) Special Definitions. For purposes of this Section 1.1(d), the following definitions shall apply:

(1) *“Additional Shares of Common Stock”* shall mean all shares of Common Stock issued (or, pursuant to Section 1.1(d)(vi)(C) below, deemed to be issued) by the Corporation after the Original Issue Date, other than (x) the following shares of Common Stock and (y) shares of Common Stock deemed issued pursuant to the following Options (as defined below) and Convertible Securities (as defined below) (clauses (x) and (y), collectively, *“Exempted Securities”*):

a. as to any series of Preferred Stock, shares of Common Stock, Options or Convertible Securities issued as a dividend or distribution on such series of Preferred Stock; or

b. shares of Common Stock, Options or Convertible Securities issued by reason of a dividend, stock split, split-up or other distribution on shares of Common Stock that is covered by Section 1.1(d)(vii); or

c. shares of Common Stock, Options or other equity-linked securities or awards issued to employees or directors of, or consultants or advisors to, the Corporation or any of its subsidiaries pursuant to a plan, agreement or arrangement approved by the Board of Directors of the Corporation; or

d. shares of Common Stock or Convertible Securities actually issued upon the exercise of Options or shares of Common Stock actually issued upon the conversion or exchange of Convertible Securities, in each case provided such issuance is pursuant to the terms of such Option or Convertible Security; or

e. shares of Common Stock, Options or Convertible Securities issued to banks, equipment lessors or other financial institutions, or to real property lessors, pursuant to a debt financing, equipment leasing or real property leasing transaction; or

f. shares of Common Stock, Options, Convertible Securities or other equity or equity-linked securities issued as acquisition consideration pursuant to the acquisition of another corporation by the Corporation by merger, purchase of substantially all of the assets or other reorganization or to a joint venture agreement; or

g. shares of Common Stock, Options, Convertible Securities or other equity or equity-linked issued in connection with a Significant Transaction Event; or

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

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

(B) No Adjustment of Conversion Price. No adjustment in the Conversion Price shall be made as the result of the issuance or deemed issuance of Additional Shares of Common Stock if the Corporation receives written notice from the Requisite Holders agreeing that no such adjustment shall be made as the result of the issuance or deemed issuance of such Additional Shares of Common Stock.

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

(1) If the Corporation at any time or from time to time after the Original Issue Date shall issue any Options or Convertible Securities (excluding Options or Convertible Securities which are themselves Exempted Securities) or shall fix a record date for the determination of holders of any class of securities entitled to receive any such Options or Convertible Securities, then the maximum number of shares of Common Stock (as set forth in the instrument relating thereto, assuming the satisfaction of any conditions to exercisability, convertibility or exchangeability but without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or, in the case of Convertible Securities and Options therefor, the conversion or exchange of such Convertible Securities, shall be deemed to be Additional Shares of Common Stock issued as of the time of such issue or, in case such a record date shall have been fixed, as of the close of business on such record date.

(2) If the terms of any Option or Convertible Security, the issuance of which resulted in an adjustment to the Conversion Price pursuant to the terms of Section 1.1(d)(vi)(D), are revised as a result of an amendment to such terms or any other adjustment pursuant to the provisions of such Option or Convertible Security (but excluding automatic adjustments to such terms pursuant to anti-dilution or similar provisions of such Option or Convertible Security) to provide for either (I) any increase or decrease in the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any such Option or Convertible Security or (II) any increase or decrease in the consideration payable to the Corporation upon such exercise, conversion and/or exchange, then, effective upon such increase or decrease becoming effective, the Conversion Price computed upon the original issue of such Option or Convertible Security (or upon the occurrence of a record date with respect thereto) shall be readjusted to such Conversion Price as would have obtained had such revised terms been in effect upon the original date of issuance of such Option or Convertible Security. Notwithstanding the foregoing, no readjustment pursuant to this clause (2) shall have the effect of increasing the Conversion Price to an amount which exceeds the lower of (x) the Conversion Price in effect immediately prior to the original adjustment made as a result of the issuance of such Option or Convertible Security, or (y) the Conversion Price that would have resulted from any issuances of Additional Shares of Common Stock (other than deemed issuances of Additional Shares of

Common Stock as a result of the issuance of such Option or Convertible Security) between the original adjustment date and such readjustment date.

(3) If the terms of any Option or Convertible Security (excluding Options or Convertible Securities which are themselves Exempted Securities), the issuance of which did not result in an adjustment to the Conversion Price pursuant to the terms of Section 1.1(d)(vi)(D) (either because the consideration per share (determined pursuant to Section 1.1(d)(vi)(E) of the Additional Shares of Common Stock subject thereto was equal to or greater than the Conversion Price then in effect, or because such Option or Convertible Security was issued before the Original Issue Date), are revised after the Original Issue Date as a result of an amendment to such terms or any other adjustment pursuant to the provisions of such Option or Convertible Security (but excluding automatic adjustments to such terms pursuant to anti-dilution or similar provisions of such Option or Convertible Security) to provide for either (I) any increase in the number of shares of Common Stock issuable upon the exercise, conversion or exchange of any such Option or Convertible Security or (II) any decrease in the consideration payable to the Corporation upon such exercise, conversion or exchange, then such Option or Convertible Security, as so amended or adjusted, and the Additional Shares of Common Stock subject thereto (determined in the manner provided in Section 1.1(d)(vi)(C)(1)) shall be deemed to have been issued effective upon such increase or decrease becoming effective.

(4) Upon the expiration or termination of any unexercised Option or unconverted or unexchanged Convertible Security (or portion thereof) which resulted (either upon its original issuance or upon a revision of its terms) in an adjustment to the Conversion Price pursuant to the terms of Section 1.1(d)(vi)(D), the Conversion Price shall be readjusted to such Conversion Price as would have obtained had such Option or Convertible Security (or portion thereof) never been issued.

(5) If the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any Option or Convertible Security, or the consideration payable to the Corporation upon such exercise, conversion and/or exchange, is calculable at the time such Option or Convertible Security is issued or amended but is subject to adjustment based upon subsequent events, any adjustment to the Conversion Price provided for in this Section 1.1(d)(vi)(C) shall be effected at the time of such issuance or amendment based on such number of shares or amount of consideration without regard to any provisions for subsequent adjustments (and any subsequent adjustments shall be treated as provided in clauses (2) and (3) of this Section 1.1(d)(vi)(C)). If the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any Option or Convertible Security, or the consideration payable to the Corporation upon such exercise, conversion and/or exchange, cannot be calculated at all at the time such Option or Convertible Security is issued or amended, any adjustment to the Conversion Price that would result under the terms of this Section 1.1(d)(vi)(C) at the time of such issuance or amendment shall instead be effected at the time such number of shares and/or amount of consideration is first calculable (even if subject to subsequent adjustments), assuming for purposes of calculating such adjustment to the Conversion Price that such issuance or amendment took place at the time such calculation can first be made.

(D) Adjustment of Conversion Price Upon Issuance of Additional Shares of Common Stock. In the event the Corporation shall at any time after the

Original Issue Date issue Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Section 1.1(d)(vi)(C)), without consideration or for a consideration per share less than the Conversion Price in effect immediately prior to such issuance or deemed issuance, then the Conversion Price shall be reduced, concurrently with such issue, to a price (calculated to the nearest one-hundredth of a cent) determined in accordance with the following formula:

$$CP_2 = CP_1 * (A + B) \div (A + C).$$

For purposes of the foregoing formula, the following definitions shall apply:

(1) "CP₂" shall mean the Conversion Price in effect immediately after such issuance or deemed issuance of Additional Shares of Common Stock;

(2) "CP₁" shall mean the Conversion Price in effect immediately prior to such issuance or deemed issuance of Additional Shares of Common Stock;

(3) "A" shall mean the number of shares of Common Stock outstanding immediately prior to such issuance or deemed issuance of Additional Shares of Common Stock (treating for this purpose as outstanding all shares of Common Stock, other than Exempted Securities, issuable upon exercise of Options outstanding immediately prior to such issuance or deemed issuance or upon conversion or exchange of Convertible Securities (including the Preferred Stock) outstanding (assuming exercise of any outstanding Options therefor) immediately prior to such issue);

(4) "B" shall mean the number of shares of Common Stock, excluding Exempted Securities, that would have been issued if such Additional Shares of Common Stock had been issued or deemed issued at a price per share equal to CP₁ (determined by dividing the aggregate consideration received by the Corporation in respect of such issue by CP₁); and

(5) "C" shall mean the number of such Additional Shares of Common Stock issued in such transaction.

(E) Determination of Consideration. For purposes of this Section 1.1(d)(vi), the consideration received by the Corporation for the issuance or deemed issuance of any Additional Shares of Common Stock shall be computed as follows:

(1) Cash and Property. Such consideration shall:

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

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



c. in the event Additional Shares of Common Stock are issued together with other shares or securities, excluding Exempted Securities, or other assets of the Corporation for consideration which covers both, be the proportion of such consideration so received, computed as provided in clauses a. and b. above, as determined in good faith by the Board of Directors of the Corporation.

(2) Options and Convertible Securities. The consideration per share received by the Corporation for Additional Shares of Common Stock deemed to have been issued pursuant to Section 1.1(d)(vi)(C), relating to Options and Convertible Securities, shall be determined by dividing:

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

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

(F) Multiple Closing Dates. In the event the Corporation shall issue on more than one date Additional Shares of Common Stock that are a part of one transaction or a series of related transactions and that would result in an adjustment to the Conversion Price pursuant to the terms of Section 1.1(d)(vi)(D) then, upon the final such issuance, the Conversion Price shall be readjusted to give effect to all such issuances as if they occurred on the date of the first such issuance (and without giving effect to any additional adjustments as a result of any such subsequent issuances within such period).

(vii) Certain Other Adjustments.

(A) Stock Dividends and Stock Splits. If the Corporation, at any time while the Series D Preferred Stock is outstanding: (1) pays a stock dividend or otherwise makes a distribution or distributions payable in shares of Common Stock on shares of Common Stock or any other common stock equivalents (which, for avoidance of doubt, shall not include any PIK Dividends or shares of Common Stock issued by the Corporation upon conversion of, or payment of a dividend on, the Series D Preferred Stock or the Series C Preferred Stock), (2) subdivides outstanding shares of Common Stock into a larger number of shares, (3) combines (including by way of a reverse stock split) outstanding shares of Common Stock into a smaller number of shares, or (4) issues, in the event of a reclassification of shares of the Common Stock, any shares of capital stock of the Corporation, then the Conversion Price shall be multiplied by a

fraction of which the numerator shall be the number of shares of Common Stock (excluding any treasury shares of the Corporation) outstanding immediately before such event, and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event. Any adjustment made pursuant to this Section 1.1(d)(vii)(A) shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

(B) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 1.1(d)(vii)(A) above, if at any time the Corporation grants, issues or sells any common stock equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "*Purchase Rights*"), then the holder of shares of Series D Preferred Stock thereof will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the holder of shares of Series D Preferred Stock could have acquired if the holder of shares of Series D Preferred Stock had held the number of shares of Common Stock acquirable upon complete conversion of such holder's Series D Preferred Stock immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such purchase.

(C) Fundamental Transaction. If, at any time while the Series D Preferred Stock is outstanding, (1) the Corporation, directly or indirectly, in one or more related transactions effects any merger or consolidation of the Corporation with or into another person, other than a Significant Transaction Event, (2) the Corporation, directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of related transactions, other than a Significant Transaction Event, (3) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Corporation or another person) is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of 50% or more of the outstanding capital stock of the Corporation, other than a Significant Transaction Event, (4) the Corporation, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property, other than a Significant Transaction Event, or (5) the Corporation, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with another person whereby such other person acquires more than 50% of the outstanding shares of Common Stock (not including any shares of Common Stock held by the other person or other persons making or party to, or associated or affiliated with the other persons making or party to, such stock or share purchase agreement or other business combination), other than a Significant Transaction Event (each a "*Fundamental Transaction*"), then, upon any subsequent conversion of the Series D Preferred Stock, the holders of shares of Series D Preferred Stock shall have the right to receive, for each share of Common Stock that would have been issuable upon such conversion immediately prior to the occurrence of such Fundamental Transaction, the number of shares of Common Stock of the successor or acquiring corporation or of the Corporation, if it is the surviving corporation, and any



additional consideration (the "*Alternate Consideration*") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which the Series D Preferred Stock is convertible immediately prior to such Fundamental Transaction. For purposes of any such conversion, the determination of the Conversion Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Corporation shall apportion the Conversion Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the holder of shares of Series D Preferred Stock shall be given the same choice as to the Alternate Consideration it receives upon any conversion of the Series D Preferred Stock following such Fundamental Transaction. To the extent necessary to effectuate the foregoing provisions, any successor to the Corporation or surviving entity in such Fundamental Transaction shall file an amended and restated Articles of Incorporation or Certificate of Designation with the same terms and conditions and issue to the holders of shares of Series D Preferred Stock new preferred stock consistent with the foregoing provisions and evidencing the holders' right to convert such preferred stock into Alternate Consideration. The Corporation shall cause any successor entity in a Fundamental Transaction in which the Corporation is not the survivor (the "*Successor Entity*") to assume in writing all of the obligations of the Corporation under this Certificate in accordance with the provisions of this Section 1.1(d)(vii)(C) pursuant to written agreements entered into prior to such Fundamental Transaction and shall deliver to the holder of shares of Series D Preferred Stock in exchange for the Series D Preferred Stock a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to the Series D Preferred Stock which is convertible for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon conversion of the Series D Preferred Stock prior to such Fundamental Transaction, and with a conversion price which applies the conversion price hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such conversion price being for the purpose of protecting the economic value of the Series D Preferred Stock immediately prior to the consummation of such Fundamental Transaction). Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Certificate referring to the "Corporation" shall refer instead to the Successor Entity), and may exercise every right and power of the Corporation and shall assume all of the obligations of the Corporation under this Certificate with the same effect as if such Successor Entity had been named as the Corporation herein.

(viii) Calculations. All calculations under this Section 1.1(d) shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 1.1(d), the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding any treasury shares of the Corporation) issued and outstanding.

(ix) Notice to the Holders. Whenever the Conversion Price is adjusted pursuant to any provision of this Section 1.1(d), the Corporation shall promptly deliver to each holder

of shares of Series D Preferred Stock a notice setting forth the Conversion Price after such adjustment and setting forth a brief statement of the facts requiring such adjustment. If (A) the Corporation shall declare a dividend (or any other distribution in whatever form) on the Common Stock, (B) the Corporation shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock, (C) the Corporation shall authorize the granting to all holders of the Common Stock of rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any stockholders of the Corporation shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Corporation is a party, any sale or transfer of all or substantially all of the assets of the Corporation, or any compulsory share exchange whereby the Common Stock is converted into other securities, cash or property or (E) the Corporation shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation, then, in each case, the Corporation shall cause to be filed at each office or agency maintained for the purpose of conversion of the Series D Preferred Stock, and shall cause to be delivered to each holder of shares of Series D Preferred Stock at its last address as it shall appear upon the stock books of the Corporation, at least ten (10) calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (1) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (2) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange, provided that the failure to deliver such notice or any defect therein or in the delivery thereof shall not affect the validity of the corporate action required to be specified in such notice.

(e) Optional Conversion.

(i) Optional Conversion Rights. At any time or times on or after the Original Issue Date, each holder of Series D Preferred Stock shall be entitled to convert any portion of the outstanding Series D Preferred Stock held by such holder and any PIK Dividends (without the payment of additional consideration by the holder thereof) into such number of fully paid and non-assessable shares of Common Stock as determined for any such holder by dividing (A) the sum of (I) the aggregate Stated Value of all outstanding shares of Series D Preferred Stock being converted by such holder, (II) the aggregate Stated Value of all shares of Series D Preferred Stock due and owing to such holder as PIK Dividends which such holder is converting, and (III) the aggregate amount of cash dividends due and owing to such holder that such holder is converting by (B) the Conversion Price in effect on the Optional Conversion Date (as defined below), as adjusted in accordance with Section 1.1(d).

(ii) Fractional Shares. No fractional shares or scrip representing fractional shares shall be issued upon the conversion of the Series D Preferred Stock pursuant to this Section 1.1(e). As to any fraction of a share which the holder of shares of Series D Preferred Stock would otherwise be entitled to purchase upon such conversion, the Corporation shall round up to the next whole share.

(iii) Mechanics of Conversion.

(A) To convert a share of Series D Preferred Stock and/or PIK Dividends into shares of Common Stock pursuant to this Section 1.1(e) on any date (an "*Optional Conversion Date*"), the holder of such shares of Series D Preferred Stock and/or PIK Dividends shall deliver to the Corporation (whether via facsimile, electronic mail or otherwise), for receipt on or prior to 11:59 p.m., New York time, on such date, a copy of an executed notice of such conversion in the form attached hereto as Exhibit A (the "*Optional Conversion Notice*"). Within three (3) Trading Days (as defined below) of the Optional Conversion Date such holder that delivered the Optional Conversion Notice shall, if such holder's shares of Series D Preferred Stock are certificated, surrender his, her or its certificate or certificates for all such shares (or, if such holder of Series D Preferred Stock alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation and its transfer agent to indemnify the Corporation and/or its transfer agent against any claim that may be made against the Corporation and/or its transfer agent on account of the alleged loss, theft or destruction of such certificate) to the Corporation at the place designated in such notice. If so required by the Corporation or its transfer agent, any certificates surrendered for conversion shall be endorsed or accompanied by written instrument or instruments of transfer, in form satisfactory to the Corporation or its transfer agent, duly executed by the registered holder of shares of Series D Preferred Stock or by his, her or its attorney duly authorized in writing. All rights with respect to the Series D Preferred Stock converted pursuant to this Section 1.1(e) will terminate at the Optional Conversion Date (notwithstanding the failure of the holder or holders of Series D Preferred Stock to surrender any certificates at or prior to such time), except only for the rights of the holders of Series D Preferred Stock, upon surrender, if applicable, of their certificate or certificates (or lost certificate affidavit and agreement), to receive the items provided for in the next sentence of this Section 1.1(e)(iii). As soon as practicable after the Optional Conversion Date and, if applicable, the surrender of the certificate or certificates (or lost certificate affidavit and agreement) for Series D Preferred Stock, the Corporation shall issue and deliver to such holder of Series D Preferred Stock, or to his, her or its nominees, a notice of issuance of uncertificated shares and, may, upon written request, issue and deliver a certificate or certificates for the number of full shares of Common Stock issuable on such conversion in accordance with the provisions hereof. Such converted Series D Preferred Stock shall be retired and cancelled and may not be reissued as shares of such series, and the Corporation may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of its Preferred Stock accordingly.

(B) On or before the third (3rd) Trading Day following the date of receipt of a Conversion Notice (or such earlier date as required pursuant to the 1934 Act or other applicable law, rule or regulation for the settlement of a trade initiated on the applicable Conversion Date of such shares of Common Stock issuable pursuant to such Optional Conversion Notice) (the "*Share Delivery Deadline*"), the Corporation shall (1) provided that its then current transfer agent is participating in The Depository Trust Company's ("DTC") Fast Automated Securities Transfer Program, credit such aggregate number of shares of Common Stock to which such converting holder shall be entitled to such holder's or its designee's balance account with DTC through its Deposit/Withdrawal at Custodian system, or (2) if the Transfer Agent is not participating in the DTC Fast Automated Securities Transfer Program, issue and deliver (via reputable overnight courier) to the address as specified in such Conversion Notice, a certificate, registered in the name of such holder or its designee, for the number of shares of Common Stock to which such holder shall be entitled. If the number of shares of Series D Preferred Stock represented by the Series D Preferred Stock Certificate(s) submitted for conversion pursuant to

Section 1.1(e)(3)(A) is greater than the number of shares of Series D Preferred Stock being converted, then the Corporation shall, as soon as practicable and in no event later than three (3) Trading Days after receipt of the Series D Preferred Stock Certificate(s) and at its own expense, issue and deliver to such holder (or its designee) a new Series D Preferred Stock Certificate representing the number of shares of Series D Preferred Stock not so converted. The person or entity entitled to receive the shares of Common Stock issuable upon an optional conversion of Series D Preferred Stock shall be treated for all purposes as the record holder or holders of such shares of Common Stock on the Conversion Date.

(iv) "*Trading Day*" means any day on which the Common Stock is traded on the principal securities exchange securities market on which the Common Stock is then traded, provided that "Trading Day" shall not include any day on which the Common Stock is scheduled to trade on such exchange or market for less than 4.5 hours or any day that the Common Stock is suspended from trading during the final hour of trading on such exchange or market (or if such exchange or market does not designate in advance the closing time of trading on such exchange or market, then during the hour ending at 4:00:00 p.m., New York time) unless such day is otherwise designated as a Trading Day in writing by the holder converting the relevant shares of Series D Preferred Stock pursuant to this Section 1.1(e).

(v) Corporation's Failure to Timely Convert. If the Corporation shall fail, for any reason or for no reason, on or prior to the applicable Share Delivery Deadline, to issue to a holder a certificate for the number of shares of Common Stock to which such holder is entitled and register such shares of Common Stock on the Corporation's share register or to credit such holder's or its designee's balance account with DTC for such number of shares of Common Stock to which such holder is entitled upon such holder's conversion pursuant to this Section 1.1(e) (a "*Conversion Failure*"), and if on or after such Share Delivery Deadline such holder purchases (in an open market transaction or otherwise) shares of Common Stock to deliver in satisfaction of a sale by such holder of all or any portion of the number of shares of Common Stock, or a sale of a number of shares of Common Stock equal to all or any portion of the number of shares of Common Stock, issuable upon such conversion that such holder so anticipated receiving from the Corporation, then, in addition to all other remedies available to such holder, the Corporation shall, within three (3) Trading Days after receipt of such holder's request and in such holder's discretion, either: (I) pay cash to such holder in an amount equal to such holder's total purchase price (including brokerage commissions and other out-of-pocket expenses, if any) for the shares of Common Stock so purchased (including, without limitation, by any other individual or entity in respect, or on behalf, of such holder) (the "*Buy-In Price*"), at which point the Corporation's obligation to so issue and deliver such certificate or credit such holder's balance account with DTC for the number of shares of Common Stock to which such holder would have been entitled upon such holder's conversion hereunder (as the case may be) (and to issue such shares of Common Stock) shall terminate, or (II) promptly honor its obligation to so issue and deliver to such holder a certificate or certificates representing such shares of Common Stock or credit such holder's balance account with DTC for the number of shares of Common Stock to which such holder is entitled upon such holder's conversion hereunder (as the case may be) and pay cash to such holder in an amount equal to the excess (if any) of the Buy-In Price over the product of (x) such number of shares of Common Stock multiplied by (y) the lowest closing sale price of the Common Stock on any Trading Day during the period commencing on the date of the applicable Conversion Notice and ending on the date of such issuance and payment under this clause (II).

(f) Redemption.

(i) Mandatory Redemption. Unless prohibited by Nevada law governing distributions to stockholders of a corporation, the Series D Preferred Stock shall be redeemed (a "**Mandatory Redemption**") by the Corporation at a price equal to the Stated Value for such share of Series D Preferred Stock, plus an amount per share equal to the Stated Value of any shares of Series D Preferred Stock that are issuable as the result of accrued, but unpaid, PIK Dividends (the "**Redemption Price**"), if the Requisite Holders provide written notice of redemption to the Corporation on or after October 15, 2022, which notice may only be so provided if on or after such date the Common Stock of the Corporation is not listed on a Trading Market (the date selected by the Corporation that is within thirty (30) days following the date that the Corporation receives such notice is referred to as the "**Redemption Date**"). If on the Redemption Date Nevada law governing distributions to stockholders of a corporation prevents the Corporation from redeeming all outstanding shares of Series D Preferred Stock to be redeemed, the Corporation shall ratably redeem the maximum number of shares of Series D Preferred Stock that it may redeem consistent with such law, and shall redeem the remaining shares as soon as it may lawfully do so under such law. If the Corporation fails to pay the Redemption Price in full and redeem all outstanding shares of Series D Preferred Stock on the Redemption Date, then PIK Dividends shall accrue as specified in Section 1.1(c)(ii) hereof.

(ii) Redemption Notice. The Corporation shall send written notice of the Mandatory Redemption (the "**Redemption Notice**") to each holder of record of Series D Preferred Stock not less than ten (10) days prior to the Redemption Date. The Redemption Notice shall state:

(A) the number of shares of Series D Preferred Stock held by the holder that the Corporation shall redeem on the Redemption Date specified in the Redemption Notice;

(B) the Redemption Date and the Redemption Price; and

(C) for holders of shares in certificated form, that the holder is to surrender to the Corporation, in the manner and at the place designated, his, her or its certificate or certificates representing the shares of Series D Preferred Stock to be redeemed.

(iii) Surrender of Certificates; Payment. On or before the Redemption Date, each holder of shares of Series D Preferred Stock to be redeemed on the Redemption Date, shall, if a holder of shares in certificated form, surrender the certificate or certificates representing such shares (or, if such registered holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate) to the Corporation, in the manner and at the place designated in the Redemption Notice, and thereupon the Redemption Price for such shares shall be payable to the order of the person whose name appears on such certificate or certificates as the owner thereof.

(iv) Redeemed or Otherwise Acquired Shares. Any shares of Series D Preferred Stock that are redeemed or otherwise acquired by the Corporation or any of its subsidiaries shall be automatically and immediately cancelled and retired and shall not be reissued, sold or transferred.

(g) Waiver, Amendment. Any of the rights, powers, privileges and other terms of the Series D Preferred Stock set forth herein may be waived or amended on behalf of all holders of Series D Preferred Stock by the affirmative written consent or vote of the Requisite Holders.

(h) Notices. Except as otherwise provided herein, any notice required or permitted by the provisions of this Section 1.1 to be given to a holder of shares of Series D Preferred Stock shall be mailed, postage prepaid, to the post office address last shown on the records of the Corporation, or given by electronic communication in compliance with Section 78 of the Nevada Revised Statutes, and shall be deemed sent upon such mailing or electronic transmission.

Section 1.2 Withholding. The Corporation agrees that, provided that a holder of the Corporation's capital stock delivers to the Corporation a properly executed IRS Form W-9 certifying as to such holder's complete exemption from backup withholding (or, if such holder is a disregarded entity for U.S. federal income tax purposes, its regarded owner's complete exemption from backup withholding), under current law the Corporation (including any paying agent of the Corporation) shall not be required to, and shall not, withhold on any payments or deemed payments to any such holder. In the event that any holder of the Corporation's capital stock fails to deliver to the Corporation such properly executed IRS Form W-9, the Corporation reasonably believes that a previously delivered IRS W-9 is no longer accurate and/or valid, or there is a change in law that affects the withholding obligations of the Corporation, the Corporation and its paying agent shall be entitled to withhold taxes on all payments made to the relevant holder in the form of cash or to request that the relevant holder promptly pay the Corporation in cash any amounts required to satisfy any withholding tax obligations. In the event that the Corporation does not have sufficient cash with respect to any such holder from withholding on cash payments otherwise payable to such holder and cash paid to the Corporation by such holder to the Corporation pursuant to the immediately preceding sentence, the Corporation and its paying agent shall be entitled to withhold taxes on deemed payments, including PIK Dividends and constructive distributions, on the Series D Preferred Stock to the extent required by law, and the Corporation and its paying agent shall be entitled to satisfy any required withholding tax on non-cash payments (including deemed payments) through a sale of a portion of the Series D Preferred Stock received as a PIK Dividend or from cash dividends or sales proceeds subsequently paid or credited on the Series D Preferred Stock.





BARBARA K. CEGAVSKE
 Secretary of State
 202 North Carson Street
 Carson City, Nevada 89701-4201
 (775) 684-5708
 Website: www.nvsos.gov
 www.nvsilverflume.gov

Filed in the Office of <i>Barbara K. Cegavske</i>	Business Number C13283-2001
Secretary of State State Of Nevada	Filing Number 20211566343
	Filed On 06/29/2021 07:54:31 AM
	Number of Pages 1

Registered Agent Acceptance/Statement of Change

TYPE OR PRINT - USE DARK INK ONLY - DO NOT HIGHLIGHT

1. Entity information:	Name of represented entity: <input style="width: 90%;" type="text" value="Applied Blockchain, Inc."/> Entity or Nevada Business Identification Number (NVID): <input style="width: 150px;" type="text" value="NV20011309405"/> <small>(for entities currently on file)</small>												
2. Registered Agent Acceptance:	<input checked="" type="checkbox"/> Registered Agent Acceptance												
3. Information Being Changed:	Statement of Change takes the following effect: (select only one) <input checked="" type="checkbox"/> Appoints New Agent (complete section 4) <input type="checkbox"/> Update Represented Entity Acting as Registered Agent (complete sections 5) <input checked="" type="checkbox"/> Update Registered Agent Name (complete sections 4 & 5) <input checked="" type="checkbox"/> Update Registered Agent Address (complete sections 4 & 5)												
4. Registered Agent Information Before the Change: (Non-commercial registered agents ONLY)	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;"><input style="width: 95%;" type="text"/></td> <td style="width: 40%;"><input style="width: 95%;" type="text"/></td> </tr> <tr> <td>Name</td> <td>Telephone</td> </tr> <tr> <td><input style="width: 45%;" type="text"/></td> <td><input style="width: 15%;" type="text"/> Nevada <input style="width: 35%;" type="text"/></td> </tr> <tr> <td>Street Address</td> <td>City Zip Code</td> </tr> <tr> <td><input style="width: 45%;" type="text"/></td> <td><input style="width: 15%;" type="text"/> Nevada <input style="width: 35%;" type="text"/></td> </tr> <tr> <td>Mailing Address (only if different from above)</td> <td>City Zip Code</td> </tr> </table>	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>	Name	Telephone	<input style="width: 45%;" type="text"/>	<input style="width: 15%;" type="text"/> Nevada <input style="width: 35%;" type="text"/>	Street Address	City Zip Code	<input style="width: 45%;" type="text"/>	<input style="width: 15%;" type="text"/> Nevada <input style="width: 35%;" type="text"/>	Mailing Address (only if different from above)	City Zip Code
<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>												
Name	Telephone												
<input style="width: 45%;" type="text"/>	<input style="width: 15%;" type="text"/> Nevada <input style="width: 35%;" type="text"/>												
Street Address	City Zip Code												
<input style="width: 45%;" type="text"/>	<input style="width: 15%;" type="text"/> Nevada <input style="width: 35%;" type="text"/>												
Mailing Address (only if different from above)	City Zip Code												
5. Newly Appointed Registered Agent or Registered Agent Information After the Change:	<input checked="" type="checkbox"/> Commercial Registered Agent (name only below) <input type="checkbox"/> Noncommercial Registered Agent (name and address below) <input type="checkbox"/> Office or position with Entity (title and address below) <input style="width: 95%;" type="text" value="CAPITOL CORPORATE SERVICES, INC."/> Name of Registered Agent OR Title of Office or Position with Entity <input style="width: 45%;" type="text" value="202 SOUTH MINNESOTA STREET"/> <input style="width: 15%;" type="text" value="Carson City"/> <input style="width: 35%;" type="text" value="Nevada 89703"/> Street Address City Zip Code <input style="width: 45%;" type="text"/> <input style="width: 15%;" type="text"/> Nevada <input style="width: 35%;" type="text"/> Mailing Address (only if different from above) City Zip Code												
6. Electronic Notification: (Optional)	Email address for electronic notifications for "Non-Commercial" or "Office or Positions with Entity" registered agents only: <input style="width: 95%;" type="text"/>												
7. Certificate of Acceptance of Appointment of Registered Agent: (Required)	<p style="text-align: center;">I hereby accept appointment as Registered Agent for the above named Entity.</p> <p>X <u>DELANIE CASE</u> <input style="width: 100px;" type="text" value="06/29/2021"/> <small>Authorized Signature of Registered Agent or On Behalf of Registered Agent Entity Date</small></p>												
8. Signature of Represented Entity: (Required)	<p>X <u>DAVID RENCH</u> <input style="width: 100px;" type="text" value="06/29/2021"/> <small>Authorized Signature On Behalf of the Entity Date</small></p>												

(required)

Authorized Signature on Behalf of the Entity

Date

This form must be accompanied by appropriate fees.

page 1 of 1



BARBARA K. CEGAUSKE
 Secretary of State
 202 North Carson Street
 Carson City, Nevada 89701-4201
 (775) 684-5708
 Website: www.nvsos.gov
www.nvsilverflume.gov

Annual or Amended List and State Business License Application

ANNUAL **AMENDED** (check one)

List of Officers, Managers, Members, General Partners, Managing Partners, Trustees or Subscribers:

Applied Blockchain, Inc.

NAME OF ENTITY

NV20011309405

Entity or Nevada Business
Identification Number (NVID)

TYPE OR PRINT ONLY - USE DARK INK ONLY - DO NOT HIGHLIGHT

IMPORTANT: Read instructions before completing and returning this form.

Please indicate the entity type (check only one):

- Corporation
 - This corporation is publicly traded, the Central Index Key number is:

0001144879
- Nonprofit Corporation (see nonprofit sections below)
- Limited-Liability Company
- Limited Partnership
- Limited-Liability Partnership
- Limited-Liability Limited Partnership
- Business Trust
- Corporation Sole

Filed in the Office of Secretary of State State Of Nevada	Business Number C13283-2001 Filing Number 20211502899 Filed On 06/02/2021 14:24:01 PM Number of Pages 2
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Additional Officers, Managers, Members, General Partners, Managing Partners, Trustees or Subscribers, may be listed on a supplemental page.

CHECK ONLY IF APPLICABLE

Pursuant to NRS Chapter 76, this entity is exempt from the business license fee.

001 - Governmental Entity

006 - NRS 680B.020 Insurance Co, provide license or certificate of authority number

For nonprofit entities formed under NRS chapter 80: entities without 501(c) nonprofit designation are required to maintain a state business license, the fee is \$200.00. Those claiming an exemption under 501(c) designation must indicate by checking box below.

Pursuant to NRS Chapter 76, this entity is a 501(c) nonprofit entity and is exempt from the business license fee.
Exemption Code 002

For nonprofit entities formed under NRS Chapter 81: entities which are Unit-owners' association or Religious, Charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C § 501(c) are excluded from the requirement to obtain a state business license. Please indicate below if this entity falls under one of these categories by marking the appropriate box. If the entity does not fall under either of these categories please submit \$200.00 for the state business license.

Unit-owners' Association Religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. §501(c)

For nonprofit entities formed under NRS Chapter 82 and 80: Charitable Solicitation Information - check applicable box

Does the Organization intend to solicit charitable or tax deductible contributions?

No - no additional form is required

Yes - the "Charitable Solicitation Registration Statement" is required.

The Organization claims exemption pursuant to NRS 82A 210 - the "Exemption From Charitable Solicitation Registration Statement" is required

****Failure to include the required statement form will result in relection of the filing and could result in late fees.****



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 Secretary of State
 202 North Carson Street
 Carson City, Nevada 89701-4201
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**Annual or Amended List
 and State Business License
 Application - Continued**

Officers, Managers, Members, General Partners, Managing Partners, Trustees or Subscribers:

CORPORATION, INDICATE THE SECRETARY:

Wesley Cummins **USA**
 Name Country

3811 Turtle Creek Blvd Suite 2100 **Dallas** **TX** **75219**
 Address City State Zip/Postal Code

CORPORATION, INDICATE THE TREASURER:

David Rench **USA**
 Name Country

3811 Turtle Creek Blvd Suite 2100 **Dallas** **TX** **75219**
 Address City State Zip/Postal Code

CORPORATION, INDICATE THE DIRECTOR:

Wesley Cummins **USA**
 Name Country

3811 Turtle Creek Blvd Suite 2100 **Dallas** **TX** **75219**
 Address City State Zip/Postal Code

CORPORATION, INDICATE THE PRESIDENT:

Wesley Cummins **USA**
 Name Country

3811 Turtle Creek Blvd Suite 2100 **Dallas** **TX** **75219**
 Address City State Zip/Postal Code

None of the officers and directors identified in the list of officers has been identified with the fraudulent intent of concealing the identity of any person or persons exercising the power or authority of an officer or director in furtherance of any unlawful conduct.

I declare, to the best of my knowledge under penalty of perjury, that the information contained herein is correct and acknowledge that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

X Wesley Cummins

Signature of Officer, Manager, Managing Member,
 General Partner, Managing Partner, Trustee,
 Subscriber, Member, Owner of Business,
 Partner or Authorized Signer FORM WILL BE RETURNED IF

President **06/02/2021**
 Title Date

UNSIGNED



BARBARA K. CEGAVSKE
 Secretary of State
 202 North Carson Street
 Carson City, Nevada 89701-4201
 (775) 684-5708
 Website: www.nvsos.gov

Filed in the Office of <i>Barbara K. Cegavske</i>	Business Number C13283-2001
Secretary of State State Of Nevada	Filing Number 20211456018
	Filed On 5/13/2021 3:41:00 PM
	Number of Pages 2

Certificate of Correction

NRS 78, 78A, 80, 81, 82, 84, 86, 87, 87A, 88, 88A, 89 and 92A

(Only one document may be corrected per certificate.)

TYPE OR PRINT - USE DARK INK ONLY - DO NOT HIGHLIGHT

INSTRUCTIONS:

1. Enter the current name as on file with the Nevada Secretary of State and enter the Entity or Nevada Business Identification Number (NVID).
2. Name of document with inaccuracy or defect.
3. Filing date of document with inaccuracy or defect.
4. Brief description of inaccuracy or defect.
5. Correction of inaccuracy or defect.
6. Must be signed by Authorized Signer. Form will be returned if unsigned.

1. Entity Information:	Name of entity as on file with the Nevada Secretary of State: <div style="border: 1px solid black; padding: 2px; margin-bottom: 5px;">Applied Blockchain, Inc.</div> Entity or Nevada Business Identification Number (NVID): <div style="border: 1px solid black; padding: 2px; display: inline-block;">C13283-2001</div>
2. Document:	Name of document with inaccuracy or defect: <div style="border: 1px solid black; padding: 2px; margin-top: 5px;">Second Amended and Restated Articles of Incorporation</div>
3. Filing Date:	Filing date of document which correction is being made: <div style="border: 1px solid black; padding: 2px; display: inline-block;">April 15, 2021</div>
4. Description:	Description of inaccuracy or defect: Number of shares and par value for Series C Convertible Redeemable Preferred Stock should have been specified.
5. Correction:	Correction of inaccuracy or defect: The Fourteenth Article is hereby replaced and corrected to specify that Series C preferred stock shall consist of 660,000 shares, par value \$0.001 per share, as further detailed in Exhibit A hereto.
6. Signature: (Required)	<div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="text-align: center;"> <input checked="" type="checkbox"/> <i>David R...</i> <hr style="width: 100%;"/> Signature </div> <div style="text-align: right;"> 05/13/2021 Date </div> </div>

This form must be accompanied by appropriate fees.

Page 1 of 1
Revised: 1/1/2019

EXHIBIT A

The Fourteenth Article is hereby replaced and corrected to read as follows:

FOURTEENTH. Applied Blockchain, Inc., pursuant to the provisions of Sections 78.195 and 78.1955 of the General Corporation Law of the State of Nevada, does hereby make that certain Certificate of Designations of the Powers, Preferences and Relative, Participating, Optional and Other Restrictions of Series C Preferred Stock of Applied Blockchain, Inc., a copy of which has been attached hereto as Exhibit C (the "Series C Designation"). Applied Blockchain, Inc., does hereby state and certify that pursuant to the authority expressly vested in the Board of Directors of the corporation by the provisions of Article FOURTH hereof, the Board of Directors duly adopted resolutions authorizing the issuance of 660,000 shares, par value \$0.001 per share, and fixing the designation and preferences and relative, participating, optional and other special rights, and qualifications, limitations and restrictions, of a series of preferred stock to be designated "Series C Convertible Redeemable Preferred Stock", as further described in and pursuant to the terms of Exhibit C hereto. The Series C Designation is incorporated herein and shall be in full force and effect as of the effective date hereof.





BARBARA K. CEGAVSKE
 Secretary of State
 202 North Carson Street
 Carson City, Nevada 89701-4201
 (775) 684-5708
 Website: www.nvsos.gov

Filed in the Office of <i>Barbara K. Cegavske</i>	Business Number C13283-2001
Secretary of State State Of Nevada	Filing Number 20211386244
	Filed On 4/15/2021 8:47:00 AM
	Number of Pages 2

Certificate of Correction

NRS 78, 78A, 80, 81, 82, 84, 86, 87, 87A, 88, 88A, 89 and 92A

(Only one document may be corrected per certificate.)

TYPE OR PRINT - USE DARK INK ONLY - DO NOT HIGHLIGHT

INSTRUCTIONS:

1. Enter the current name as on file with the Nevada Secretary of State and enter the Entity or Nevada Business Identification Number (NVID).
2. Name of document with inaccuracy or defect.
3. Filing date of document with inaccuracy or defect.
4. Brief description of inaccuracy or defect.
5. Correction of inaccuracy or defect.
6. Must be signed by Authorized Signer. Form will be returned if unsigned.

1. Entity Information:	Name of entity as on file with the Nevada Secretary of State: <div style="border: 1px solid black; padding: 2px; margin-bottom: 5px;">Applied Blockchain, Inc.</div> Entity or Nevada Business Identification Number (NVID): <div style="border: 1px solid black; padding: 2px; margin-bottom: 5px;">C13283-2001</div>
2. Document:	Name of document with inaccuracy or defect: <div style="border: 1px solid black; padding: 2px; margin-bottom: 5px;">Certificate of Amendment</div>
3. Filing Date:	Filing date of document which correction is being made: <div style="border: 1px solid black; padding: 2px; margin-bottom: 5px;">03/25/2021</div>
4. Description:	Description of inaccuracy or defect: <div style="border: 1px solid black; padding: 5px; min-height: 60px;"> Par value should have remained unchanged. Authorized common stock was increased without a corresponding increase to authorized capital stock. </div>
5. Correction:	Correction of inaccuracy or defect: <div style="border: 1px solid black; padding: 5px; min-height: 60px;"> The Third ARTICLE is hereby replaced and corrected to increase the authorized capital stock to 505,000,000, par value \$0.001, 500,000,000 are common stock and 5,000,000 are preferred stock [see attachment hereto] </div>
6. Signature: (Required)	<div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="text-align: center;"> <input checked="" type="checkbox"/> <div style="border-bottom: 1px solid black; width: 150px; margin: 0 auto;"><i>David R...</i></div> Signature </div> <div style="text-align: right;"> <div style="border: 1px solid black; padding: 2px; margin-bottom: 5px;">04/15/2021</div> Date </div> </div>



SUPPLEMENT TO ITEM 5
Correction of inaccuracy or defect:

The Third Article is hereby replaced and corrected to read as follows:

THIRD. The total number of shares of capital stock which this corporation shall have authority to issue is five hundred five million (505,000,000) with a par value of \$0.001 per share amounting to \$505,000.00. Five hundred million (500,000,000) of those shares are Common Stock and five million (5,000,000) of those shares are Preferred Stock. Each share of Common Stock shall entitle the holder thereof to one vote, in person or by proxy, on any matter on which action of the stockholders of this corporation is sought. The holders of shares of Preferred Stock shall have no right to vote such shares, except (i) as determined by the Board of Directors of this corporation in accordance with the provisions of Section (3) of Article FOURTH of these Articles of Incorporation, or (ii) as otherwise provided by the Nevada General Corporation Law, as amended from time to time.





BARBARA K. CEGAVSKE
 Secretary of State
 202 North Carson Street
 Carson City, Nevada 89701-4201
 (775) 684-5708
 Website: www.nvsos.gov

Filed in the Office of <i>Barbara K. Cegavske</i>	Business Number C13283-2001
Secretary of State State Of Nevada	Filing Number 20211387751
	Filed On 4/15/2021 2:18:00 PM
	Number of Pages 71

Profit Corporation:
Certificate of Amendment (PURSUANT TO NRS 78.380 & 78.385/78.390)
Certificate to Accompany Restated Articles or Amended and Restated Articles (PURSUANT TO NRS 78.403)
Officer's Statement (PURSUANT TO NRS 80.030)

TYPE OR PRINT - USE DARK INK ONLY - DO NOT HIGHLIGHT

1. Entity information:	Name of entity as on file with the Nevada Secretary of State: <input type="text" value="Applied Blockchain, Inc."/> Entity or Nevada Business Identification Number (NVID): <input type="text" value="C13283-2001"/>
2. Restated or Amended and Restated Articles: (Select one) (If <u>amending and restating only</u> , complete section 1,2 3, 5 and 6)	<input checked="" type="checkbox"/> Certificate to Accompany Restated Articles or Amended and Restated Articles <input type="checkbox"/> Restated Articles - No amendments; articles are restated only and are signed by an officer of the corporation who has been authorized to execute the certificate by resolution of the board of directors adopted on: <input type="text"/> The certificate correctly sets forth the text of the articles or certificate as amended to the date of the certificate. <input checked="" type="checkbox"/> Amended and Restated Articles * Restated or Amended and Restated Articles must be included with this filing type.
3. Type of Amendment Filing Being Completed: (Select only one box) (If amending, complete section 1, 3, 5 and 6.)	<input type="checkbox"/> Certificate of Amendment to Articles of Incorporation (Pursuant to NRS 78.380 - Before Issuance of Stock) The undersigned declare that they constitute at least two-thirds of the following: (Check only one box) <input type="checkbox"/> incorporators <input type="checkbox"/> board of directors The undersigned affirmatively declare that to the date of this certificate, no stock of the corporation has been issued
	<input checked="" type="checkbox"/> Certificate of Amendment to Articles of Incorporation (Pursuant to NRS 78.385 and 78.390 - After Issuance of Stock) The vote by which the stockholders holding shares in the corporation entitling them to exercise at least a majority of the voting power, or such greater proportion of the voting power as may be required in the case of a vote by classes or series, or as may be required by the provisions of the articles of incorporation* have voted in favor of the amendment is: <input type="text" value="78.6%"/> <input type="checkbox"/> Officer's Statement (foreign qualified entities only) - Name in home state, if using a modified name in Nevada: <input type="text"/> Jurisdiction of formation: <input type="text"/> Changes to takes the following effect: <input type="checkbox"/> The entity name has been amended. <input type="checkbox"/> Dissolution <input type="checkbox"/> The purpose of the entity has been amended. <input type="checkbox"/> Merger <input type="checkbox"/> The authorized shares have been amended. <input type="checkbox"/> Conversion <input type="checkbox"/> Other: (specify changes) <input type="text"/>

* Officer's Statement must be submitted with either a certified copy of or a certificate evidencing the filing of any document, amendatory or otherwise, relating to the original articles in the place of the corporations

This form must be accompanied by appropriate fees.



BARBARA K. CEGAVSKE
 Secretary of State
 202 North Carson Street
 Carson City, Nevada 89701-4201
 (775) 684-5708
 Website: www.nvsos.gov

Profit Corporation:
Certificate of Amendment (PURSUANT TO NRS 78.380 & 78.385/78.390)
Certificate to Accompany Restated Articles or Amended and
Restated Articles (PURSUANT TO NRS 78.403)
Officer's Statement (PURSUANT TO NRS 80.030)

4. Effective Date and Time: (Optional)	Date: <input type="text"/> Time: <input type="text"/> (must not be later than 90 days after the certificate is filed)
---	--

5. Information Being Changed: (Domestic corporations only)	<p>Changes to takes the following effect:</p> <ul style="list-style-type: none"> <input type="checkbox"/> The entity name has been amended. <input type="checkbox"/> The registered agent has been changed. (attach Certificate of Acceptance from new registered agent) <input type="checkbox"/> The purpose of the entity has been amended. <input checked="" type="checkbox"/> The authorized shares have been amended. <input type="checkbox"/> The directors, managers or general partners have been amended. <input type="checkbox"/> IRS tax language has been added. <input checked="" type="checkbox"/> Articles have been added. <input type="checkbox"/> Articles have been deleted. <input checked="" type="checkbox"/> Other. <p>The articles have been amended as follows: (provide article numbers, if available) Articles 13 and 14 have been added; Article 14 adds new series of Preferred (attach additional page(s) if necessary)</p>
---	--

6. Signature: (Required)	<p>X <u></u> <input type="text" value="CFO"/> Signature of Officer or Authorized Signer Title</p> <p>X _____ <input type="text"/> Signature of Officer or Authorized Signer Title</p> <p><small>*If any proposed amendment would alter or change any preference or any relative or other right given to any class or series of outstanding shares, then the amendment must be approved by the vote, in addition to the affirmative vote otherwise required, of the holders of shares representing a majority of the voting power of each class or series affected by the amendment regardless to limitations or restrictions on the voting power thereof.</small></p>
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Please include any required or optional information in space below:
 (attach additional page(s) if necessary)

This form must be accompanied by appropriate fees.

Page 2 of 2
Revised: 1/1/2019

SUPPLEMENT TO ITEM 5

The articles have been amended as follows:

1. The Thirteenth Article is hereby added to incorporate, restate and affirm:
 - (i) That certain Amended and Restated Certificate of Designations of the Powers, Preferences and Relative, Participating, Optional and Other Special Rights of Preferred Stock and Qualifications, Limitations and Restrictions Thereof of Series A Convertible Preferred Stock for Flight Safety Technologies, Inc. n/k/a Applied Blockchain, Inc., which was filed with the Nevada Secretary of State on September 9, 2009 (the "Series A Designation"); and
 - (ii) That certain Certificate of Designations of the Powers, Preferences and Relative, Participating, Optional and Other Special Rights of Preferred Stock and Qualifications, Limitations and Restrictions Thereof of Series B Convertible Preferred Stock for Flight Safety Technologies, Inc. n/k/a Applied Blockchain, Inc., which was filed with the Nevada Secretary of State on September 9, 2009 (the "Series B Designation").

The Series A Designation and the Series B Designation shall remain in full force and effect notwithstanding the filing of the Second Amended and Restated Articles of Incorporation of Applied Blockchain, Inc.

2. The Fourteenth Article is hereby added to adopt and incorporate that certain Certificate of Designations of the Powers, Preferences and Relative, Participating, Optional and Other Restrictions of Series C Preferred Stock of Applied Blockchain, Inc. (the "Series C Designation"). The adoption of the Series C Designation constitutes an amendment to the Articles of Incorporation of Applied Blockchain, Inc.



SECOND AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
APPLIED BLOCKCHAIN, INC.

Pursuant to the provisions of Title 7, Chapter 78 of the Nevada Revised Statutes, the Articles of Incorporation of this Corporation are hereby amended and restated to read in their entirety as follows:

FIRST. The name of this corporation is Applied Blockchain, Inc.

SECOND. The purpose of this corporation is to engage in any lawful act or activity for which corporations may be organized pursuant to the General Corporation Law of the State of Nevada.

THIRD. The total number of shares of capital stock which this corporation shall have authority to issue is five hundred five million (505,000,000) with a par value of \$0.001 per share amounting to \$505,000.00. Five hundred million (500,000,000) of those shares are Common Stock and five million (5,000,000) of those shares are Preferred Stock. Each share of Common Stock shall entitle the holder thereof to one vote, in person or by proxy, on any matter on which action of the stockholders of this corporation is sought. The holders of shares of Preferred Stock shall have no right to vote such shares, except (i) as determined by the Board of Directors of this corporation in accordance with the provisions of Section (3) of Article FOURTH of these Articles of Incorporation, or (ii) as otherwise provided by the Nevada General Corporation Law, as amended from time to time.

FOURTH. The Board of Directors of this corporation shall be, and hereby is, authorized and empowered, subject to such limitations prescribed by law and the provisions of Article THIRD of these Articles of Incorporation, to provide for the issuance of the shares of Preferred Stock in series, and by filing a certificate pursuant to the applicable law of the State of Nevada, to establish from time to time the number of shares to be included in each such series, and to fix the designations, powers, preferences and rights of the shares of each such series and the qualifications, limitations or restrictions of each such series. The authority of the Board of Directors with respect to each series shall include, but not be limited to, determination of the following:

- (1) The number of shares constituting such series and the distinctive designation of such series;
- (2) The dividend rate on the shares of such series, whether dividends shall be cumulative and, if so, from which date or dates, and the relative rights of priority, if any, of payment of dividends on shares of such series;



- (3) Whether such series shall have voting rights, in addition to the voting rights provided by law, and, if so, the terms of such voting rights;
- (4) Whether such series shall have conversion privileges, and, if so, the terms and conditions of such conversion privileges, including provision for the adjustment of the conversion rate, in such events as the Board of Directors shall determine;
- (5) Whether or not the shares of such series shall be redeemable, and, if so, the terms and conditions of such redemption, including the date or date upon or after which those shares shall be redeemable, and the amount per share payable in the event of redemption, which amount may vary in different circumstances and at different redemption dates;
- (6) Whether that series shall have a sinking fund for the redemption or purchase of shares of such series, and, if so, the terms and amount of such sinking fund;
- (7) The rights of the shares of such series in the event of voluntary or involuntary liquidation, dissolution or winding up of this corporation, and the relative rights of priority, if any, of payment of shares of such series; and
- (8) Any other relative rights, preferences and limitation of such series.

Dividends on issued and outstanding shares of Preferred Stock shall be paid or declared and set apart for payment prior to any dividends being paid or declared and set apart for payment on the shares of Common Stock with respect to the same dividend period.

If, upon any voluntary or involuntary liquidation, dissolution or winding up of this corporation, the assets of this corporation available for distribution to holders of shares of Preferred Stock of all series shall be insufficient to pay such holders the full and complete preferential amount to which such holders are entitled, then such assets shall be distributed ratably among the shares of all series of Preferred Stock in accordance with the respective preferential amounts, including unpaid cumulative dividends, if any, payable with respect thereto.

FIFTH. No director or officer of this corporation shall have any personal liability to this corporation or its stockholders for damages for breach of fiduciary duty as a director or officer, except that this Article FIFTH shall not eliminate or limit the liability of a director or officer for (i) acts or omissions which involve intentional misconduct, fraud or a knowing violation of law, or (ii) the payment of dividends in violation of the Nevada General Corporation Law. Any repeal or modification of this article by the stockholders of this corporation shall not adversely affect any right or protection of any director of this corporation existing at the time of such repeal or modification.

SIXTH. This corporation reserves the right at any time, and from time to time, to amend, alter, change or repeal any provision specified in the Articles of Incorporation, and other provisions authorized by the laws of the State of Nevada at any such time then in force may be added or



inserted, in the manner now or hereafter prescribed by law; and all rights, preferences and privileges of whatsoever nature conferred upon stockholders, directors or any other persons whomsoever by and pursuant to these Articles of Incorporation in their present form or as hereafter amended are granted subject to the rights reserved in this article.

SEVENTH. Capital stock issued by this corporation after the amount of the subscription price or par value therefor has been paid in full shall not be subject to pay debts of this corporation, and no capital stock issued by this corporation and for which payment has been made shall ever be assessable or assessed.

EIGHTH. (a) The affairs of this corporation shall be governed by a Board of Directors of not more than fifteen (15) persons nor less than one (1) person, as determined from time to time by vote of a majority of the Board of Directors of this corporation; provided, however, that the number of directors shall not be reduced so as to reduce the term of any director at the time in office.

(b) The directors shall be elected by the holders of shares entitled to vote thereon at the annual meeting of shareholders and until their respective successor has been elected and qualified.

(c) Notwithstanding any other provisions of these Articles of Incorporation or the bylaws of this corporation (and notwithstanding the fact that some lesser percentage may be specified by law, these Articles of Incorporation or the bylaws of this corporation), any director or the entire Board of Directors of this corporation may be removed at any time, but only for cause and only by the affirmative vote of the holders of seventy-five percent (75%) or more of the outstanding shares of capital stock of this corporation entitled to vote generally in the election of directors (considered for this purpose as one class) cast at a meeting of the stockholders of this corporation called for that purpose. Notwithstanding the foregoing, and except as otherwise required by law, whenever the holders of any one or more series of Preferred Stock shall have the right, voting separately as a class, to elect one or more directors of this corporation, the provisions of section (c) of this article shall not apply with respect to the director or directors elected by such holders of Preferred Stock.

NINTH. The period of existence of this corporation shall be perpetual.

TENTH. No contract or other transaction between this corporation and any other corporation, whether or not a majority of the shares of the capital stock of such other corporation is owned by this corporation, and no act of this corporation shall in any way be affected or invalidated by the fact that any of the directors of this corporation are pecuniarily or otherwise interested in, or are directors or officers of such other corporation. Any director of this corporation, individually, or any firm of which such director may be a member, may be a party to, or may be pecuniarily or otherwise interested in any contract or transaction of this corporation; provided, however, that the fact that he or such firm is so interested shall be disclosed or shall have been known to the Board of Directors of this corporation, or a majority thereof; and any director of this corporation who is also a director or officer of such other corporation, or who is so interested, may be counted in determining the existence of a quorum at any meeting of the Board of Directors of

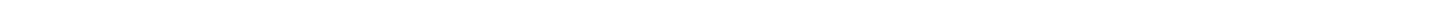


this corporation that shall authorize such contract or transaction, and may vote thereat to authorize such contract or transaction, with the same force and effect as if he or she were not such director or officer of such other corporation or not so interested.

ELEVENTH. Subject to the provisions of any series of Preferred Stock of this corporation which may at the time be issued and outstanding and convertible into shares of Common Stock of this corporation, the affirmative vote of at least two-thirds (2/3) of the outstanding shares of Common Stock held by stockholders of this corporation other than the "related person" (as defined later in these Articles of Incorporation), shall be required for the approval or authorization of any "business combination" (as defined later in these Articles of Incorporation) of this corporation with any related person; provided, however, that such voting requirement shall not be applicable if:

- (1) The business combination was approved by the Board of Directors of this corporation either (A) prior to the acquisition by such related person of the beneficial ownership of twenty percent (20%) or requisition the outstanding shares of the Common Stock of this corporation, or (B) after such acquisition, but only during such time as such related person has sought and obtained the unanimous approval by the Board of Directors of this corporation of such acquisition of more than 20% of the Common Stock prior to such acquisition being consummated; or
- (2) The business combination is solely between this corporation and another corporation, fifty percent (50%) or more of the voting stock of which is owned by a related person; provided, however, that each stockholder of this corporation receives the same type of consideration in such transaction in proportion to his or her stockholdings; or
- (3) All of the following conditions are satisfied: (A) The cash or fair market value of the property, securities or other consideration to be received per share by holders of Common Stock of this corporation in the business combination is not less than the higher of (i) the highest per share price (including brokerage commissions, soliciting dealers fees, dealer-management compensation, and other expenses, including, but not limited to, costs of newspaper advertisements, printing expenses and attorneys' fees) paid by such related person in acquiring any of its holdings of this corporation's Common Stock or (ii) an amount which has the same or a greater percentage relationship to the market price of this corporation's Common Stock immediately prior to the commencement of acquisition of this corporation's Common Stock by such related person, but in no event in excess of two (2) times the highest per share price determined in clause (i), above; and

(B) After becoming a related person and prior to the consummation of such business combination, (i) such related person shall not have acquired any newly issued shares of capital stock, directly or indirectly, from this corporation (except upon conversion of convertible securities acquired by it prior to becoming a related person or upon



compliance with the provision of this article or as a result of a pro rata stock dividend or stock split) and (ii) such related person shall not have received the benefit, directly or indirectly, (except proportionately as a stockholder) of any loans, advances, guarantees, pledges or other financial assistance or tax credits provided by this corporation, or made any major changes in this corporation's business or equity capital structure; and

(C) A proxy statement complying with the requirements of the Securities Exchange Act of 1934, whether or not this corporation is then subject to such requirements, shall be mailed to the public stockholders of this corporation for the purpose of soliciting stockholder approval of such business combination and shall contain at the front thereof, in a prominent place (i) any recommendations as to the advisability (or inadvisability) of the business combination which the continuing directors, or any outside directors, may determine to specify, and (ii) the opinion of a reputable national investment banking firm as to the fairness (or not) of the terms of such business combination, from the point of view of the remaining public stockholders of this corporation (such investment banking firm to be engaged solely on behalf of the remaining public stockholders, to be paid a reasonable fee for its services by this corporation upon receipt of such opinion, to be a reputable national investment banking firm which has not previously been associated with such related person and, if there are at the time any such directors, to be selected by a majority of the continuing directors and outside directors).

For purposes of this article:

- (1) The term "business combination" shall be defined as and mean (a) any merger or consolidation of this corporation with or into a related person; (b) any sale, lease, exchange, transfer or other disposition, including, without limitation, a mortgage or any other security device, of all or any substantial part of the assets of this corporation, including, without limitation, any voting securities of a subsidiary, or of a subsidiary, to a related person; (c) any merger or consolidation of a related person with or into this corporation or a subsidiary of this corporation; (d) any sale, lease, exchange, transfer or other disposition of all or any substantial part of the assets of a related person to this corporation or a subsidiary of this corporation; (e) the issuance of any securities of this corporation or a subsidiary of this corporation to a related person; (f) the acquisition by this corporation or a subsidiary of this corporation of any securities of a related person; (g) any reclassification of Common Stock of this corporation, or any recapitalization involving Common Stock of this corporation, consummated within five (5) years after a related person becomes a related person, and (h) any agreement, contract or other arrangement providing for any of the transactions described in this definition of business combination.
- (2) The term "related person" shall be defined as and mean and include any individual, corporation, trust, association, partnership or other person or entity which, together



with their "affiliates" and "associates" (defined later in these Articles of Incorporation), "beneficially" owns (as this term is defined in Rule 13d-3 of the General Rules and Regulations pursuant to the Securities Exchange Act of 1934), in the aggregate 20% or more of the outstanding shares of the Common Stock of this corporation, and any "affiliate" or "associate" (as those terms are defined in Rule 12b-2 pursuant to the Securities Exchange Act of 1934) of any such individual, corporation, trust, association, partnership or other person or entity;

- (3) The term "substantial part" shall be defined as and mean more than ten percent (10%) of the total assets of the corporation in question, as of the end of its most recent fiscal year ending prior to the time the determination is being made;
- (4) Without limitation, any shares of Common Stock of this corporation which any related person has the right to acquire pursuant to any agreement, or upon exercise of conversion rights, warrants or options, or otherwise, shall be deemed beneficially owned by such related person;
- (5) For the purposes of this article, the term "other consideration to be received" shall include, without limitation, Common Stock of this corporation retained by its existing public stockholders in the event of a business combination with such related person pursuant to which this corporation is the surviving corporation; and
- (6) With respect to any proposed business combination, the term "continuing director" shall be defined as and mean a director who was a member of the Board of Directors of this corporation immediately prior to the time that any related person involved in the proposed business combination acquired twenty percent (20%) or more of the outstanding shares of Common Stock of this corporation, and the term "outside director" shall be defined as and mean a director who is not (a) an officer or employee of this corporation or any relative of an officer or employee, (b) a related person or an officer, director employee, associate or affiliate of a related person, or a relative of any of the foregoing, or (c) a person having a direct or indirect material business relationship with this corporation.

TWELFTH. All of the powers of this corporation, insofar as the same may be lawfully vested by these Articles of Incorporation in the Board of Directors, are hereby conferred upon the Board of Directors of this corporation. In furtherance and not in limitation of that power, the Board of Directors shall have the power to make, adopt, alter, amend and repeal from time to time bylaws of this corporation, subject to the right of the shareholders entitled to vote with respect thereto to adopt, alter, amend and repeal bylaws made by the Board of Directors; provided, however, that bylaws shall not be adopted, altered, amended or repealed by the stockholders of this corporation, except by the vote of the holders of not less than two thirds (2/3) of the outstanding shares of stock entitled to vote upon the election of directors.

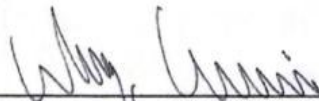


THIRTEENTH. Notwithstanding the execution and filing of these Second Amended and Restated Articles of Incorporation of Applied Blockchain, Inc., the following Series A Designation and Series B Designation filed with the Nevada Secretary of State are incorporated herein and shall remain in full force and effect as of the effective date hereof:

- (1) That certain Amended and Restated Certificate of Designations of the Powers, Preferences and Relative, Participating, Optional and Other Special Rights of Preferred Stock and Qualifications, Limitations and Restrictions Thereof of Series A Convertible Preferred Stock for Flight Safety Technologies, Inc. n/k/a Applied Blockchain, Inc., which was filed with the Nevada Secretary of State on September 9, 2009, a copy of which has been attached hereto as Exhibit A (the "Series A Designation"); and
- (2) That certain Certificate of Designations of the Powers, Preferences and Relative, Participating, Optional and Other Special Rights of Preferred Stock and Qualifications, Limitations and Restrictions Thereof of Series B Convertible Preferred Stock for Flight Safety Technologies, Inc. n/k/a Applied Blockchain, Inc., which was filed with the Nevada Secretary of State on September 9, 2009, a copy of which has been attached hereto as Exhibit B (the "Series B Designation").

FOURTEENTH. Applied Blockchain, Inc., pursuant to the provisions of Sections 78.195 and 78.1955 of the General Corporation Law of the State of Nevada, does hereby make that certain Certificate of Designations of the Powers, Preferences and Relative, Participating, Optional and Other Restrictions of Series C Preferred Stock of Applied Blockchain, Inc., a copy of which has been attached hereto as Exhibit C (the "Series C Designation"). Applied Blockchain, Inc., does hereby state and certify that pursuant to the authority expressly vested in the Board of Directors of the corporation by the provisions of Article FOURTH hereof, the Board of Directors duly adopted resolutions authorizing the issuance of, and fixing the designation and preferences and relative, participating, optional and other special rights, and qualifications, limitations and restrictions, of a series of preferred stock to be designated "Series C Convertible Redeemable Preferred Stock", as further described in and pursuant to the terms of Exhibit C hereto. The Series C Designation is incorporated herein and shall be in full force and effect as of the effective date hereof.

IN WITNESSS WHEREOF, the undersigned officer, for and on behalf of the Corporation has signed these Second Amended and Restated Articles of Incorporation this 15th day of April, 2021.



Wesley Cummins, CEO

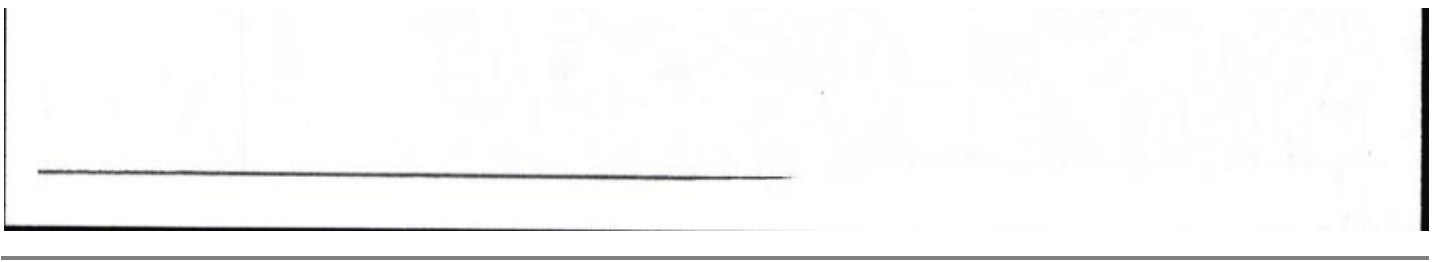



EXHIBIT A
SERIES A DESIGNATION
[See attached.]

[Exhibit A]



ROSS MILLER
Secretary of State
204 North Carson Street, Suite 1
Carson City, Nevada 89701-4620
(775) 684 8708
Website: www.nvsos.gov

Filed in the Office of 	Business Number C13283-2001
Secretary of State	Filing Number 20090672030-99
State Of Nevada	Filed On 09/09/2009
	Number of Pages 19

**Amendment to
Certificate of Designation
After Issuance of Class or Series**
(PURSUANT TO NRS 78.1955)

USE BLACK INK ONLY - DO NOT HIGHLIGHT

ABOVE SPACE IS FOR OFFICE USE ONLY

Certificate of Amendment to Certificate of Designation
For Nevada Profit Corporations
(Pursuant to NRS 78.1955 - After Issuance of Class or Series)

1. Name of corporation:

FLIGHT SAFETY TECHNOLOGIES, INC.

2. Stockholder approval pursuant to statute has been obtained.

3. The class or series of stock being amended:

Series A Convertible Preferred Stock Par Value \$0.001

4. By a resolution adopted by the board of directors, the certificate of designation is being amended as follows or the new class or series is:

See attached Amended and Restated Certificate of Designation of Series A Convertible Preferred Stock

5. Effective date of filing: (optional)

(must not be later than 90 days after the certificate is filed)

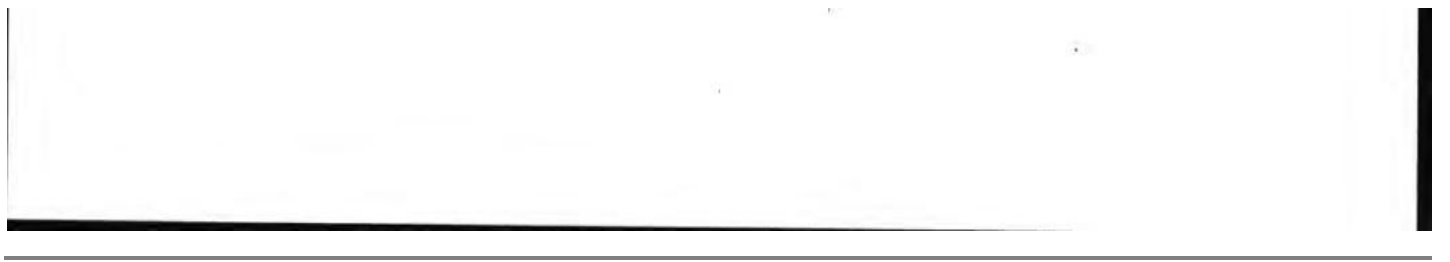
6. Signature: (required)

X 
Signature of Officer Richard S. Rosenfeld
Chief Financial Officer

Filing Fee: \$175.00

IMPORTANT: Failure to include any of the above information and submit with the proper fees may cause this filing to be rejected.

This form must be accompanied by appropriate fees.



AMENDED AND RESTATED
CERTIFICATE OF DESIGNATIONS OF THE POWERS, PREFERENCES AND
RELATIVE, PARTICIPATING, OPTIONAL AND OTHER SPECIAL RIGHTS OF
PREFERRED STOCK AND QUALIFICATIONS, LIMITATIONS AND RESTRICTIONS
THEREOF

Of

SERIES A

CONVERTIBLE PREFERRED STOCK

for

FLIGHT SAFETY TECHNOLOGIES, INC.

FLIGHT SAFETY TECHNOLOGIES, INC., a Nevada corporation (the "Corporation"), pursuant to the provisions of Section 78.1955 of the General Corporation Law of the State of Nevada, does hereby make this Amended and Restated Certificate of Designations and does hereby state and certify that pursuant to the authority expressly vested in the Board of Directors of the Corporation by the Certificate of Incorporation of the Corporation, the Board of Directors duly amends and restates the Original Certificate of Designations of Powers, Preferences and Relative, Participating, Optional and Other Special Rights of Preferred Stock and Qualifications, Limitations and Restrictions Thereof of Series A Convertible Preferred Stock for Flight Safety Technologies, Inc., as filed with the Secretary of State of the State of Nevada on December 17, 2008 as Document Number 2008-0816678-56, to read in its entirety as set forth herein, and adopts the following resolutions, which resolutions remain in full force and effect as of the date hereof:

RESOLVED, that, pursuant to Article Fourth of the Certificate of Incorporation of the Corporation, the Board of Directors hereby authorizes the issuance of, and fixes the designation and preferences and relative, participating, optional and other special rights, and qualifications, limitations and restrictions, of a series of preferred stock consisting of 70,000 shares, par value \$.001 per share, to be designated "Series A Convertible Preferred Stock" (the "Series A Preferred Shares"); and

RESOLVED, that each of the Series A Preferred Shares shall rank equally in all respects with the Series B Convertible Preferred Stock of the Company, par value \$.001 per share (the "Series B Preferred Shares," and together with the Series A Preferred Shares, the "Preferred Shares"), and that the Series A Preferred Shares shall be subject to the following terms and provisions:

1. **Designation.** There is hereby created out of the authorized and unissued shares of preferred stock of the Corporation a series of preferred stock designated as the "Series A Convertible Preferred Stock", par value \$.001 per share. The number of shares constituting such

series shall be 70,000 shares.

2. Dividends.

(a) Dividend Rate. For so long as any Series A Preferred Shares are outstanding, the Corporation shall pay, at its discretion either: (i) a dividend payable in cash at a per annum rate of 8% of the Original Purchase Price (as defined below) per share; or (ii) a dividend payable in additional shares of Series A Preferred Shares at a per annum rate of 10% of the Original Purchase Price per share; *provided, however*, that if the VWAP (as such term is defined below) for the common stock, par value \$.001 of the Corporation ("Common Stock") exceeds Fourteen Cents (\$0.14) per share with respect to any fiscal quarter, no dividends shall be due with respect to such fiscal quarter. Dividends shall be calculated on the basis of a 30-day month and a 360-day year. For purposes of calculating the number of Series A Preferred Shares to be issued as a dividend under Section 2(a)(ii) hereof, the Series A Preferred Shares to be issued shall be valued at a price per share equal to the Original Purchase Price. For purposes of this Certificate, the following terms shall have the meanings indicated:

"VWAP" means the quarterly volume-weighted average sale price per share of Common Stock on the principal market for any particular fiscal quarter as reported, as such figure may be adjusted for stock splits and combinations of the Common Stock.

(b) Dividend Payment Dates. The dividend payment dates for the Series A Preferred Shares are the first days of March, June, September, and December commencing March 1, 2009; provided that if any such payment date is not a Business Day (as defined below) then such dividend shall be payable on the next Business Day. The initial dividend period for any Series A Preferred Shares shall commence on the day when such shares are issued. The term "Business Day" means a day other than a Saturday, Sunday or day on which banking institutions in New York are authorized or required to remain closed.

(c) Consent. For so long as any Series A Preferred Shares are outstanding, the Corporation shall not pay any dividends on any shares of Common Stock (except for dividends payable in Common Stock) or any shares of any other capital stock other than on Series B Preferred Shares in accordance with the provisions of the Certificate of Designations of the Powers, Preferences and Relative, Participating, Optional and Other Special Rights of Preferred Stock and Qualifications, Limitations and Restrictions Thereof of Series B Convertible Preferred Stock of the Company, as in effect from time to time (the "Series B Certificate of Designations"), or repurchase any shares of Common Stock (other than the repurchase of shares of Common Stock issued pursuant to employment or consulting agreements with the Corporation, which are repurchased upon termination of employment or services for consideration no greater than the original issue price) or capital stock, without having received written consent of a majority of the votes attributable to the outstanding Preferred Shares (the "Required Holders"), voting separately from the holders of Common Stock.

3. Liquidation Events.

(a) Liquidation Preference. Upon (i) any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, or (ii) unless otherwise agreed by the

Required Holders, (A) a merger or consolidation of the Corporation with or into another entity (except for a merger or consolidation in which the holders of capital stock of the Corporation immediately prior to such merger or consolidation continue to hold at least 50% of the outstanding voting power of such surviving Corporation), (B) the sale or transfer of all or substantially all of the assets of the Corporation (for this purpose "substantially all" shall mean properties or assets with a fair market value equal to 60% or more of the fair market value of the Corporation's total properties or assets as of the end of the most recent fiscal quarter and "sale" shall not include a bona fide pledge of assets), (C) any issuance of shares of capital stock by the Corporation in one or more related transactions except for (x) an issuance of shares of capital stock in which the holders of capital stock of the Corporation immediately prior to such issuance of stock continue to hold at least 50% of the outstanding voting power of the Corporation after such issuance of shares of capital stock, (y) the issuance of Series B Preferred Shares on the "Original Issue Date" (as such term is defined in the Series B Certificate of Designation), or (z) the issuance of Series A Preferred Shares on the Original Issue Date (as such term is defined below), or (D) the repurchase by the Corporation of shares of capital stock of the Corporation (other than the Series B Preferred Shares in accordance with the provisions of the Series B Certificate of Designations or the Series A Preferred Shares in accordance with the terms hereof) such that the holders of capital stock of the Corporation immediately prior to such repurchase do not hold at least 50% of the outstanding voting power of the Corporation after such repurchase (each of the transactions or events described in Sections (i) and (ii) (A) - (D) of this Section 3(a) is referred to as a "Liquidation Event" herein), each holder of outstanding Series A Preferred Shares shall be entitled to be paid out of the consideration payable to the stockholders of the Corporation (in the case of a merger or consolidation, for example) or of the consideration payable to the Corporation (net of obligations owed by the Corporation) together with all other available assets of the Corporation (in the case of an asset sale, for example), as the case may be, whether such assets are capital, surplus or capital earnings, on the same priority as other holders of Preferred Shares, but prior and in preference to any payments being paid to holders of Common Stock of the Corporation or other shares ranking junior to the Series A Preferred Shares, an amount in cash equal to \$100.00 per share (the "Original Purchase Price") plus any declared or accrued but unpaid dividends thereon (collectively with the Original Purchase Price per share, the "Preferred Share Liquidation Preference"); *provided* that if, upon any Liquidation Event, the Preferred Share Liquidation Preference as provided in this Section 3(a) is not paid in full, the holders of the Preferred Shares shall share ratably in any distribution of assets in proportion to the full respective preferential amounts to which they are entitled. For the avoidance of doubt, a sale of shares of capital stock of the Corporation by anyone other than the Corporation (for example a sale of shares of capital stock on the open market) shall not result in a Liquidation Event, notwithstanding a change of control of the Corporation, so long as such transaction does not otherwise fall under the provisions of (A) - (D) of this Section 3(a).

(b) Participation. After payment in the full of the Preferred Share Liquidation Preference, the holders of outstanding Preferred Shares and Common Stock shall share in any consideration payable to the stockholders of the Corporation (in the case of a stock repurchase, for example) or of the consideration payable to the Corporation (net of obligations owed by the Corporation) together with all other available assets of the Corporation (in the case of an asset sale, for example) pro rata (as if the Preferred Shares had been converted into Common Stock as of the date immediately prior to the date fixed for determination of stockholders entitled to receive such distribution). Notwithstanding the foregoing, if the amount which would be

receivable if the Preferred Shares had been converted into Common Stock immediately prior to the Liquidation Event is greater than the amount which would be paid under the foregoing provisions of Section 3(a) and this Section 3(b), then the holders of the Preferred Shares shall be entitled to receive such greater amount.

(c) Surrender of Certificates. On the effective date of any Liquidation Event, the Corporation shall pay all consideration to which the holders of Series A Preferred Shares shall be entitled under this Section 3. Upon receipt of such payment, each holder of Series A Preferred Shares shall surrender the certificate or certificates representing such shares, duly assigned or endorsed for transfer to the Corporation (or accompanied by duly executed stock powers relating thereto), at the principal executive office of the Corporation or the offices of the transfer agent for the Corporation, or shall notify the Corporation or any transfer agent that such certificates have been lost, stolen or destroyed, whereupon each surrendered certificate shall be canceled and retired.

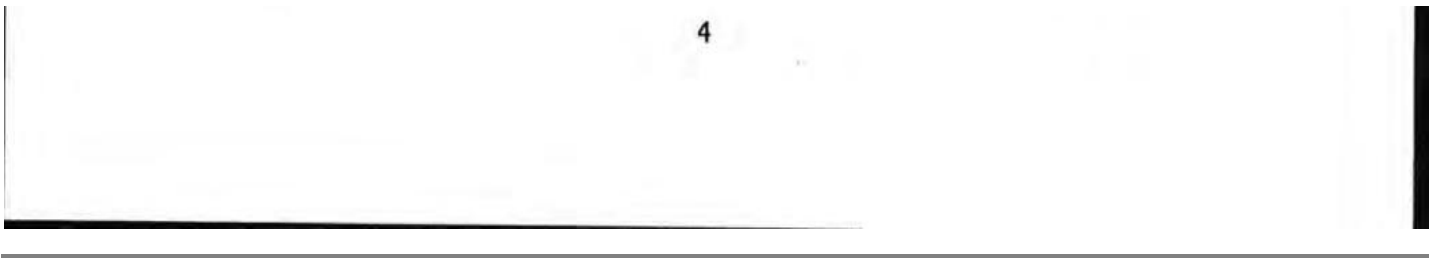
(d) Notice. Prior to the occurrence of any Liquidation Event, the Corporation will furnish each holder of Series A Preferred Shares notice to each holder at its address shown on the records of the Corporation, together with a certificate prepared by the chief financial officer of the Corporation describing in reasonable detail the facts of such Liquidation Event, stating in reasonable detail the amount(s) per share of Series A Preferred Shares each holder of Series A Preferred Shares would receive pursuant to the provisions of Sections 3(a) and 3(b) hereof and stating in reasonable detail the facts upon which such amount was determined and describing (if applicable) in reasonable detail all material terms of such Liquidation Event, to the extent known by the Corporation, including without limitation the consideration to be delivered in connection with such Liquidation Event, the valuation of the Corporation at the time of such Liquidation Event and the identities of the parties to the Liquidation Event.

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

(a) Right to Convert. Each share of Series A Preferred Shares shall be convertible, in whole or in part, at the option of the holder thereof, at any time and from time to time, and without the payment of additional consideration by the holder thereof, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing (i) the Original Purchase Price by (ii) the Conversion Price (as defined below) in effect at the time of conversion; *provided, however*, that such conversion shall be mandatory in the event the Required Holders vote to convert all of the Preferred Shares. The "Conversion Price" for the Series A Preferred Shares shall initially be Seven Cents (\$0.07) on the Original Issue Date (as such term is defined below). Such Conversion Price, and the rate at which shares of Series A Preferred Shares may be converted into shares of Common Stock, shall be subject to adjustment as provided in Section 4(d) below.

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

(i) "Additional Shares of Common Stock" shall mean all shares of Common Stock issued or deemed to be issued by the Corporation after the date upon



which a share of the Series A Preferred Shares was first issued (the "Original Issue Date"), other than:

(A) shares of Common Stock issued or issuable by reason of a dividend or other distribution on (x) the Series B Preferred Shares pursuant to the Series B Certificate of Designations, (y) the Series A Preferred Shares pursuant to Section 2(a) above or (z) shares of Common Stock that is covered by Section 4(f) or Section 4(g) below;

(B) shares of Common Stock issued or issuable upon conversion of shares of Preferred Shares;

(C) shares of Common Stock actually issued (as opposed to deemed issued under Section 4(d)(iii)) upon exercise of any Option or Convertible Security outstanding on the Original Issue Date;

(D) shares of Common Stock issued or deemed issued upon the exercise of any warrants (the "Credit Agreement Warrants") issued or issuable pursuant to the Credit Agreement, dated as of June 19, 2009 (as in effect from time to time, the "Credit Agreement") by and among the Company, the subsidiaries of the Company from time to time party thereto and Cummins Family Holdings, LLC;

(E) shares of Common Stock issued or issuable to employees, directors or consultants pursuant to equity incentive plans approved by the board of directors of the Corporation and adopted by the shareholders of the Corporation; or

(F) shares of Common Stock designated as exempt from the definition of Additional Shares of Common Stock by the Required Holders.

(ii) "Appraisal Procedure" shall be the procedure to determine fair market value of any security or other property (in either case, the "valuation amount"). If the Required Holders and the Board of Directors are not able to agree on the valuation amount within a reasonable period of time (not to exceed 20 days), the valuation amount shall be determined by an investment banking firm, which firm shall be unaffiliated with the Corporation and shall be reasonably acceptable to the Board of Directors and the Required Holders. If the Board of Directors and the Required Holders are unable to agree upon an acceptable investment banking firm within 10 days after the date either party proposed that one be selected, the investment banking firm will be selected by an arbitrator located in New York, New York selected by the American Arbitration Association (or if such organization ceases to exist, the arbitrator shall be chosen by a court of competent jurisdiction). The arbitrator shall select the investment banking firm (within 10 days of his appointment) from a list, jointly prepared by the Required Holders and the Board of Directors, of not more than four investment banking firms in the United States, of which no more than two may be named by the Board of Directors and no more

than two may be named by the Required Holders. The arbitrator may consider, within the ten-day period allotted, arguments from the parties regarding which investment banking firm to choose, but the selection by the arbitrator shall be made in its sole discretion from the list of four. The Board of Directors and the Required Holders shall submit their respective valuations and other relevant data to the investment banking firm, and the investment banking firm shall as soon as practicable thereafter make its own determination of the valuation amount. The final valuation amount for purposes hereof shall be the average of the two valuation amounts closest together, as determined by the investment banking firm, from among the valuation amounts submitted by the Corporation and the Required Holders and the valuation amount calculated by the investment banking firm. The determination of the final valuation amount by such investment banking firm shall be final and binding upon the parties. The Corporation shall pay the fees and expenses of the investment banking firm and arbitrator (if any) used to determine the valuation amount. If required by any such investment banking firm or arbitrator, the Corporation shall execute a retainer and engagement letter containing reasonable terms and conditions, including, without limitation, customary provisions concerning the rights of indemnification and contribution by the Corporation in favor of such investment banking firm or arbitrator and its officers, directors, partners, employees, agents and affiliates. If the valuation amount is for Common Stock of the Corporation, the valuation amount shall not include a discount for minority ownership or illiquidity or a control premium.

(iii) "As-Converted Basis" shall mean, for the purpose of determining the number of shares of Common Stock outstanding, a basis of calculation which takes into account (A) the number of shares of Common Stock actually issued and outstanding at the time of such determination, and (B) the number of shares of Common Stock that is then issuable upon the conversion of all outstanding Convertible Securities (as defined below), including without limitation, the Preferred Shares.

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

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

(c) Mechanics of Conversion.

(i) In order for a holder of Preferred Shares to convert shares of Preferred Shares into shares of Common Stock, such holder shall provide, at the office of the transfer agent for the Series A Preferred Shares (or at the principal office of the Corporation if the Corporation serves as its own transfer agent), written notice that such holder elects to convert all or any number of the shares of the Series A Preferred Shares represented by the certificate or certificates held by such holder. Such notice shall state such holder's name or the names of the nominees in which such holder wishes the certificate or certificates for shares of Common Stock to be issued; *provided*, that in the case the nominee is different than such holder, the holder shall also provide such



additional documentation as the Corporation shall reasonably request to establish that such transfer is in compliance with the Securities Act of 1933, as amended. The date of receipt of such certificates and notice by the transfer agent (or by the Corporation if the Corporation serves as its own transfer agent) shall be the conversion date ("Conversion Date"). The Corporation shall, as soon as practicable after the Conversion Date, but in any event within 3 business days after the later of (A) the Conversion Date or (B) in the event the holder has requested that the shares be issued in the name of a nominee different than such holder, the date on which the holder provides such additional documentation as the Corporation shall reasonably request to establish that such transfer is in compliance with the Securities Act of 1933, as amended, issue and deliver at such office to such holder of Series A Preferred Shares, or to his or its nominees, a certificate or certificates for the number of shares of Common Stock to which such holder shall be entitled, together with cash in lieu of any fraction of a share. On the Conversion Date, each holder of record of shares of Series A Preferred Shares to be surrendered for conversion shall be deemed to be the holder of record of the Common Stock issuable upon conversion of such Series A Preferred Shares, notwithstanding that the certificates representing such shares of Series A Preferred Shares shall not have been surrendered at the office of the Corporation, that notice from the Corporation shall not have been received by any holder of record of shares of such Preferred Shares, or that the certificates evidencing such shares of Common Stock shall not then be actually delivered to such holder.

(ii) At all times when any Preferred Shares are outstanding, the Corporation shall reserve and keep available out of its authorized but unissued stock, for the purpose of effecting the conversion of the Preferred Shares, such number of its duly authorized shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding Preferred Shares. The Corporation promptly will take such corporate action as may be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purpose, including without limitation engaging in best efforts to obtain the requisite stockholder approval. Before taking any action which would cause an adjustment reducing any Conversion Price below the then par value of the shares of Common Stock issuable upon conversion of the applicable Preferred Shares, the Corporation will take any corporate action which may be necessary in order that the Corporation may validly and legally issue fully paid and nonassessable shares of Common Stock at such adjusted Conversion Price.

(iii) All shares of Series A Preferred Shares which shall have been surrendered for conversion as herein provided shall no longer be deemed to be outstanding and all rights with respect to such shares, including the rights, if any, to receive notices and to vote, shall immediately cease and terminate on the Conversion Date, except only the right of the holders thereof to receive shares of Common Stock in exchange therefor and payment of any dividends declared but unpaid thereon. Any shares of Series A Preferred Shares so converted shall be retired and cancelled and shall not be reissued, and the Corporation (without the need for stockholder action) may from time to time take such appropriate action as may be necessary to reduce the authorized number of shares of Series A Preferred Shares accordingly.



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

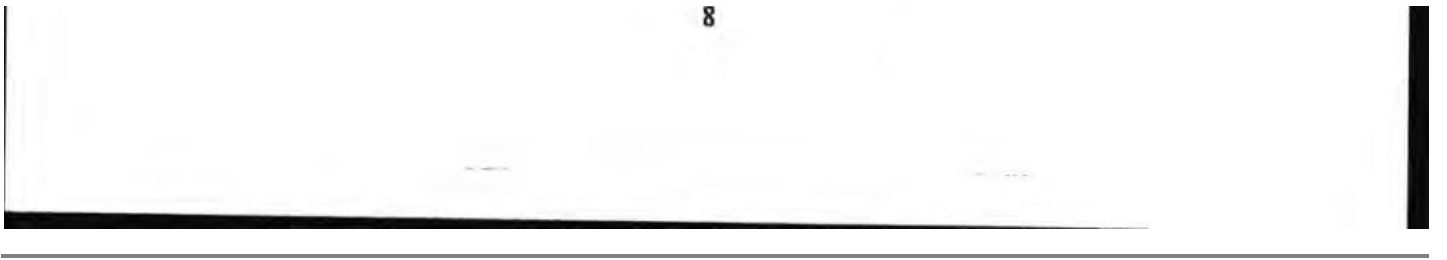
(d) Adjustments to Conversion Price for Diluting Issues.

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

(ii) *Full Ratchet; Weighted Average.*

(A) *Full Ratchet.* If the Corporation at any time or from time to time prior to the one (1) year anniversary of the Original Issue Date shall issue any Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Section 4(d)(iii) below but excluding shares issued as stock split or combination as provided in Section 4(f) below, issued upon a dividend or distribution as provided in Section 4(g) below or deemed to be issued upon a dividend of Series B Preferred Shares as provided in the Series B Certificate of Designations or upon a dividend of Series A Preferred Shares as provided in Section 2(a) above) without consideration or for consideration per share lower than the Conversion Price in effect on the date of and immediately prior to such issue, the Conversion Price for the Series A Preferred Shares shall be lowered to equal such consideration per share. For purposes of this Section 4(d)(ii), any Additional Shares of Common Stock issued for no consideration shall be deemed to be issued for a consideration per share of \$.001, subject to adjustments for Common Stock splits, dividends, and combinations.

(B) *Weighted Average.* If the Corporation at any time or from time to time on or after the one (1) year anniversary of the Original Issue Date shall issue any Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Section 4(d)(iii) below but excluding shares issued as stock split or combination as provided in Section 4(f) below, issued upon a dividend or distribution as provided in Section 4(g) below or deemed to be issued upon a dividend of Series B Preferred Shares in the Series B Certificate of Designations or



upon a dividend of Series A Preferred Shares as provided in Section 2(a) above) without consideration or for consideration per share lower than the Conversion Price in effect on the date of and immediately prior to such issue, then in such event the Conversion Price for the Series A Preferred Shares shall be lowered to an amount determined by multiplying the Conversion Price in effect immediately prior to such issue by a fraction, (x) the numerator of which shall be the sum of (1) the number of shares of Common Stock outstanding immediately prior to such issue (on an As-Converted Basis) plus (2) the number of shares of Common Stock which the aggregate consideration received or to be received by the Company for such Additional Shares of Common Stock would purchase at such Conversion Price, and (y) the denominator of which shall be the sum of (1) the number of shares of Common Stock outstanding immediately prior to such issue (on an As-Converted Basis) plus (2) the number of such Additional Shares of Common Stock so issued and/or deemed to be issued. For purposes of this Section 4(d)(ii), any Additional Shares of Common Stock issued for no consideration shall be deemed to be issued for a consideration per share of \$.001, subject to adjustments for Common Stock splits, dividends, and combinations.

(iii) *Issue of Securities, Deemed Issue of Additional Shares of Common Stock.* If the Corporation at any time or from time to time after the Original Issue Date shall issue any Options or Convertible Securities (other than (i) the Credit Agreement Warrants, (ii) Series B Preferred Shares issued as dividend as provided in the Series B Certificate of Designations or (iii) Series A Preferred Shares issued as a dividend as provided in Section 2(a) above), or shall fix a record date for the determination of holders of any class of securities entitled to receive any such Options or Convertible Securities, then the maximum number of shares of Common Stock (as set forth in the instrument relating thereto without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or, in the case of Convertible Securities and Options therefor, the conversion or exchange of such Convertible Securities, shall be deemed to be Additional Shares of Common Stock issued as of the time of such issue or, in case such a record date shall have been fixed, as of the close of business on such record date, provided that in any such case in which Additional Shares of Common Stock are deemed to be issued:

(A) No further adjustment in the Conversion Price shall be made upon the subsequent issue of Convertible Securities or shares of Common Stock upon (1) upon the exercise or conversion of any Options or Convertible Securities outstanding as of Original Issue Date; (2) upon the exercise of any Options by employees, directors, or consultants pursuant to equity incentive plans approved by the board of directors of the Corporation and adopted by the shareholders of the Corporation; (3) upon the conversion of the Series B Preferred Shares; (4) upon the conversion of the Series A Preferred Shares; or (5) in connection with the issuance or exercise of the Credit Agreement Warrants;



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

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

- 1) in the case of Convertible Securities or Options for Common Stock, the only Additional Shares of Common Stock issued were the shares of Common Stock, if any, actually issued upon the exercise of such Options or the conversion or exchange of such Convertible Securities and the consideration received therefor was the consideration actually received by the Corporation for the issue of all such Options, whether or not exercised, plus the consideration actually received by the Corporation upon such exercise, or for the issue of all such Convertible Securities which were actually converted or exchanged, plus the additional consideration, if any, actually received by the Corporation upon such conversion or exchange; and
- 2) in the case of Options for Convertible Securities, only the Convertible Securities, if any, actually issued upon the exercise thereof were issued at the time of issue of such Options, and the consideration received by the Corporation for the Additional Shares of Common Stock deemed to have been then issued was the consideration actually received by the Corporation for the issue of all such Options, whether or not exercised, plus the consideration deemed to have been received by the Corporation upon the issue of the Convertible Securities with respect to which such Options were actually exercised;

(D) In the event of any change in the number of shares of Common Stock issuable upon the exercise, conversion or exchange of any Option or Convertible Security, the Conversion Price then in effect shall forthwith be readjusted to such Conversion Price as would have obtained had the

adjustment which was made upon the issuance of such Option or Convertible Security not exercised or converted prior to such change been made upon the basis of such change; and

(E) No readjustment pursuant to clause (B), (C) or (D) above shall have the effect of increasing the Conversion Price to an amount which exceeds the lower of (1) the Conversion Price on the original adjustment date, or (2) the Conversion Price that would have resulted from any issuances of Additional Shares of Common Stock between the original adjustment date and such readjustment date.

In the event the Corporation, after the Original Issue Date, amends any Options or Convertible Securities (whether such Options or Convertible Securities were outstanding on the Original Issue Date or were issued after the Original Issue Date) to increase the number of shares issuable thereunder or decrease the consideration to be paid upon exercise or conversion thereof, then such Options or Convertible Securities, as so amended, shall be deemed to have been issued after the Original Issue Date and the provisions of this Section 4(d)(iii) shall apply.

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

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

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

(B) insofar as it consists of property other than cash, be computed at the fair market value thereof at the time of such issue, as determined in good faith by the Board of Directors, or if requested by the Required Holders, by agreement of the Board of Directors and the Required Holders, and if the Board of Directors and the Required Holders do not agree on such fair market value, in accordance with the procedures set forth in the definition of Appraisal Procedure; and

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

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

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

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

(f) *Adjustment for Stock Splits and Combinations.* If the Corporation shall at any time or from time to time after the Original Issue Date effect a subdivision of the outstanding Common Stock, each Conversion Price then in effect immediately before that subdivision shall be proportionately decreased. If the Corporation shall at any time or from time to time after the Original Issue Date combine the outstanding shares of Common Stock, each Conversion Price then in effect immediately before the combination shall be proportionately increased. Any adjustment under this paragraph shall become effective at the close of business on the date the subdivision or combination becomes effective.

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

(i) the numerator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date, and

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

provided, however, if such record date shall have been fixed and such dividend is not fully paid or if such distribution is not fully made on the date fixed therefor, the applicable Conversion Price shall be recomputed accordingly as of the close of business on such record date and thereafter each Conversion Price shall be adjusted pursuant to this paragraph as of the time of



actual payment of such dividends or distributions.

(h) *Adjustment for Reclassification, Exchange, or Substitution.* If the Common Stock issuable upon the conversion of the Series A Preferred Shares shall be changed into the same or a different number of shares of any class or classes of stock, whether by capital reorganization, reclassification, or otherwise (other than a subdivision or combination of shares or stock dividend provided for above, or a reorganization, merger, consolidation, or sale of assets provided for below), then and in each such event the holder of each such share of Series A Preferred Shares shall have the right thereafter to convert such share into the kind and amount of shares of stock and other securities and property receivable, upon such reorganization, reclassification, or other change, by holders of the number of shares of Common Stock into which such shares of Series A Preferred Shares might have been converted immediately prior to such reorganization, reclassification, or change, all subject to further adjustment as provided herein.

(i) *Adjustment for Merger or Reorganization, Etc.* In case of any consolidation or merger of the Corporation with or into another company or the sale of all or substantially all of the assets of the Corporation to another company, each share of Series A Preferred Shares, if any, remaining outstanding after such consolidation, merger or sale shall thereafter be convertible (or shall be converted into a security which shall be convertible) into the kind and amount of shares of stock or other securities or property to which a holder of the number of shares of Common Stock of the Corporation deliverable upon conversion of such Series A Preferred Shares would have been entitled upon such consolidation, merger or sale; and, in such case, appropriate adjustment shall be made in the application of the provisions in this Section 4 set forth with respect to the rights and interest thereafter of the holders of the Series A Preferred Shares, to the end that the provisions set forth in this Section 4 (including provisions with respect to changes in and other adjustments of the Conversion Price) shall thereafter be applicable, as nearly equivalent a manner as may be practicable as before the consolidation or merger. If any event occurs of the type contemplated by the provisions of this Section 4 but not expressly provided for by such provisions (including, without limitation, the granting of stock appreciation rights, phantom stock rights or other rights with equity features), then the Corporation's Board of Directors shall make an appropriate reduction in each Conversion Price so as to protect the rights of the holders of the Series A Preferred Shares.

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

(k) *Fractional Shares.* No fractional shares of Common Stock shall be issued upon conversion of the Series A Preferred Shares. In lieu of any fractional shares to which the

holder would otherwise be entitled, the Corporation shall pay cash equal to the product of such fraction multiplied by the fair market value of a share of Common Stock, as mutually agreed by the Board of Directors of the Corporation and the Required Holders; *provided, however*, that if such mutual agreement cannot be reached, such fair market value shall be determined by following the Appraisal Procedures. The determination of fractional shares shall be based on the aggregate number of shares of Series A Preferred Shares surrendered for conversion by any holder of Series A Preferred Shares and not on the individual shares of Series A Preferred Shares held by such holder.

(1) *Notice of Record Date.* In the event:

(i) that the Corporation declares a dividend (or any other distribution) on its Common Stock payable in Common Stock or other securities of the Corporation;

(ii) that the Corporation subdivides or combines its outstanding shares of Common Stock;

(iii) of any reclassification of the Common Stock of the Corporation (other than a subdivision or combination of its outstanding shares of Common Stock or a stock dividend or stock distribution thereon), or of any consolidation or merger of the Corporation into or with another company, or of the sale of all or substantially all of the assets of the Corporation; or

(iv) of the involuntary or voluntary dissolution, liquidation or winding up of the Corporation;

then the Corporation shall cause to be filed at its principal office or at the office of the transfer agent of the Series A Preferred Shares, and shall cause to be mailed to the holders of the Series A Preferred Shares at their last addresses as shown on the records of the Corporation or such transfer agent, at least ten (10) days prior to the date specified in (1) below or 20 days before the date specified in (2) below, a notice stating

(1) the record date of such dividend, distribution, subdivision or combination, or, if a record is not to be taken, the date as of which the holders of Common Stock of record to be entitled to such dividend, distribution, subdivision or combination are to be determined, or

(2) the date on which such reclassification, consolidation, merger, sale, dissolution, liquidation or winding up is expected to become effective, and the date as of which it is expected that holders of Common Stock of record shall be entitled to exchange their shares of Common Stock for securities or other property deliverable upon such reclassification, consolidation, merger, sale, dissolution or winding up.

5. Voting Rights.

(a) *Preferred Shares Voting Together.* Except as provided in Section 5(d)(i), Section 5(d)(iv), Section 5(d)(v) and Section 5(d)(ix) below, the holders of Preferred Shares shall vote together on all matters as a single class, with each Preferred Share entitled to cast the



number of votes equal to the number of shares of Common Stock into which each may be converted (as adjusted from time to time pursuant to the Series B Certificates of Designations (with respect to the Series B Preferred Shares) and pursuant to Section 4 hereof (with respect to the Series A Preferred Shares)).

(b) *Voting with Common.* Except as provided in Section 5(b) and Section 5(c) below or as otherwise expressly set forth herein, the holders of Preferred Shares shall vote together with the Common Stock on all matters as a single class, with each Preferred Share entitled to cast the number of votes equal to the number of shares of Common Stock into which it may be converted (as adjusted from time to time pursuant to Section 4 hereof) as of the record date.

(c) *Common Voting First on Certain Matters.* In addition to all other requirements imposed by Nevada law, and all other voting rights granted under the Corporation's Articles of Incorporation, as supplemented by this Certificate, the Corporation shall not undertake (i) any transaction giving rise to a Liquidation Event or (ii) any redemption of Preferred Shares, without the prior approval of the Common Stock voting as a single class. If such transaction referred in clause (i) or (ii) hereof is first approved by the requisite number of holders of Common Stock, such matter shall then be put to the vote of the holders Preferred Shares and Common Stock, voting together as a single class, with each Preferred Share entitled to cast the number of votes equal to the number of Common Stock into which it may be converted (as adjusted from time to time pursuant to the Series B Certificate of Designations (with respect to the Series B Preferred Shares) and pursuant to the Section 4 hereof (with respect to the Series A Preferred Shares)) as of the record date. For purposes of such joint vote, (A) any shares of Common Stock voted in favor of the transaction when voting as a single class shall be considered to have voted in favor of the transaction when voting together with the Preferred Shares, (B) any shares of Common Stock voted against the transaction when voting as a single class shall be considered to have voted against the transaction when voting together with the Preferred Shares and (C) any shares of Common Stock not voted on the transaction when voting as a single class shall be considered to have not voted on the transaction when voting together with the Preferred Shares.

(d) *Voting as Separate Class.* In addition to all other requirements imposed by Nevada law, and all other voting rights granted under the Corporation's Articles of Incorporation, as supplemented by the Series B Certificate of Designation and this Certificate, the Corporation shall not, and shall not permit any company or trust of which the Corporation directly or indirectly owns at the time 50% or more of the outstanding shares that represent either 50% of the voting power, 50% of the economic power, or control of the board of directors of such company or trust, other than directors' qualifying shares (a "Subsidiary") to, without the prior written consent of Required Holders voting together as a single class:

(i) amend, modify or repeal the Series B Certificate of Designations or this Certificate of Designations (whether by reclassification, merger, consolidation, reorganization or otherwise); *provided, however,* that any such amendment, modification or repeal shall also require the prior written consent of holders of a majority of the votes attributable to each of the outstanding Series B Preferred Shares and the Series A Preferred Shares, voting separately, with each Preferred Share entitled to cast the number



of votes equal to the number of shares of Common Stock into which each may be converted (as adjusted from time to time pursuant to the Series B Certificate of Designations (with respect to the Series B Preferred Shares) and pursuant to Section 4 hereof (with respect to the Series A Preferred Shares));

(ii) enter into any reclassification, merger, consolidation or reorganization;

(iii) increase or decrease (whether by amendment to the Articles of Incorporation or by reclassification, merger, consolidation, reorganization or otherwise) the number of authorized Preferred Shares;

(iv) authorize or issue (by amendment to the Articles of Incorporation or by reclassification, merger, consolidation, reorganization or otherwise) any class or series of capital stock or securities convertible into capital stock with equal or superior rights to those of the Series B Preferred Shares or the Series A Preferred Shares; *provided, however*, that if any such class or series of capital stock or securities convertible into capital stock is superior to the rights of either the Series B Preferred Shares or the Series A Preferred Shares, but not the other, such authorization and issuance must also be approved by holders of a majority of the votes attributable to such junior series, voting separately, with each Preferred Share entitled to cast the number of votes equal to the number of shares of Common Stock into which each may be converted (as adjusted from time to time pursuant to the Series B Certificate of Designations (with respect to the Series B Preferred Shares) and pursuant to Section 4 hereof (with respect to the Series A Preferred Shares));

(v) whether by amendment to the Articles of Incorporation or by reclassification, merger, consolidation, reorganization or otherwise, (i) alter, amend or waive any rights, preferences or privileges of the Preferred Shares or (ii) otherwise alter, amend or waive any provisions of the Corporation's Articles of Incorporation or by-laws in a manner adverse to the holders of the Preferred Shares; *provided, however*, that if only one of the Series A Preferred Shares or Series B Preferred Shares is affected, but not the other, such act must be approved by holders of a majority of the votes attributable to such affected series, voting separately, with each Preferred Share entitled to cast the number of votes equal to the number of shares of Common Stock into which each may be converted (as adjusted from time to time pursuant to the Series B Certificate of Designations (with respect to the Series B Preferred Shares) and pursuant to Section 4 hereof (with respect to the Series A Preferred Shares));

(vi) authorize, declare or pay any dividend (other than dividends payable solely in Common Stock) on any share of the capital stock of the Corporation or any Subsidiary, with the exception of the dividends on the Series B Preferred Shares set forth in the Series B Certificate of Designations or the Series A Preferred Shares set forth in Section 2 hereof;

(vii) redeem, purchase or otherwise acquire for value any share or shares of the capital stock of the Corporation or any Subsidiary;

(viii) authorize or issue (by amendment to the Articles of Incorporation or by reclassification, merger, consolidation, reorganization or otherwise) any additional Series B Preferred Shares; or

(ix) authorize or issue (by amendment to the Articles of Incorporation or by reclassification, merger, consolidation, reorganization or otherwise) any additional Series A Preferred Shares; *provided, however*, that such an issuance must also be approved by holders of a majority of the votes attributable to the Series B Preferred Shares, voting separately, with each Series B Preferred Share entitled to cast the number of votes equal to the number of shares of Common Stock into which each may be converted (as adjusted from time to time pursuant to the Series B Certificate of Designations).

6. **Notices.** The Corporation shall distribute to the holders of Series A Preferred Shares copies of all notices, materials, annual and quarterly reports, proxy statements, information statements and any other documents distributed generally to the holders of shares of Common Stock of the Corporation, at such times and by such method as such documents are distributed to such holders of such Common Stock.

7. **Replacement Certificates.** The certificate(s) representing the Series A Preferred Shares held by any holder of Series A Preferred Shares may be exchanged by such holder at any time and from time to time for certificates with different denominations representing an equal aggregate number of Series A Preferred Shares, as reasonably requested by such holder, upon surrendering the same. No service charge will be made for such registration or transfer or exchange.

8. **Attorneys' Fees.** In connection with enforcement by a holder of Series A Preferred Shares of any obligation of the Corporation hereunder, the prevailing party shall be entitled to recovery of reasonable attorneys' fees and expenses incurred.

9. **No Reissuance.** No Series A Preferred Shares acquired by the Corporation by reason of redemption, purchase, conversion or otherwise shall be reissued.

10. **Severability of Provisions.** If any right, preference or limitation of the Series A Preferred Shares set forth in this Certificate of Designations (as this Certificate of Designations may be amended from time to time) is found to be invalid, unlawful or incapable of being enforced by reason of any rule or law or public policy, all other rights, preferences and limitations set forth in this Certificate of Designations, which can be given effect without the invalid, unlawful or unenforceable right, preference or limitation, shall nevertheless remain in full force and effect, and no right, preference or limitation herein set forth be deemed dependent upon any such other right, preference or limitation unless so expressed herein.

11. **Specific Performance.** The Corporation acknowledges and agrees that irreparable damage would occur in the event that the Corporation failed to perform any of the provisions of this Certificate in accordance with its specific terms. It is accordingly agreed that each holder of Series A Preferred Shares shall be entitled to an injunction or injunctions to prevent or cure breaches of the provisions of this Certificate and to enforce specifically the terms

and provisions hereof, this being in addition to any other remedy to which such holder may be entitled by law or equity.

Signed on September 9, 2009

FLIGHT SAFETY TECHNOLOGIES, INC.

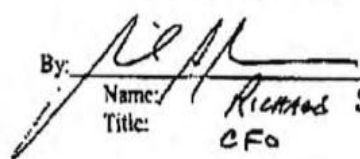
By: 
Name: Richard S Rosenfeld
Title: CFO



EXHIBIT B
SERIES B DESIGNATION
[See attached.]

[Exhibit B]



ROSS MILLER
Secretary of State
204 North Carson Street, Suite 1
Carson City, Nevada 89701-4620
(776) 684 5708
Website: www.nvsos.gov

Filed in the Office of	Business Number
	C13283-2001
Secretary of State	Filing Number
State Of Nevada	20090672028-56
	Filed On
	09/09/2009
	Number of Pages
	19

Certificate of Designation
(PURSUANT TO NRS 78.1955)

USE BLACK INK ONLY - DO NOT HIGHLIGHT

ABOVE SPACE IS FOR OFFICE USE ONLY

Certificate of Designation For
Nevada Profit Corporations
(Pursuant to NRS 78.1955)

1. Name of corporation:

FLIGHT SAFETY TECHNOLOGIES, INC.

2. By resolution of the board of directors pursuant to a provision in the articles of incorporation this certificate establishes the following regarding the voting powers, designations, preferences, limitations, restrictions and relative rights of the following class or series of stock.

See attached Certificate of Designation of the Powers, Preferences and Relative, Participating, Optional and Other Special Rights of Preferred Stock and Qualifications, Limitations and Restrictions Thereof of Series B Convertible Preferred Stock.

3. Effective date of filing: (optional)

(must not be later than 90 days after the certificate is filed)

4. Signature: (required)

X

Signature of Officer Richard S. Rosenfeld
Chief Financial Officer

Filing Fee: \$175.00

IMPORTANT: Failure to include any of the above information and submit with the proper fees may cause this filing to be rejected.

This form must be accompanied by appropriate fees.



C 20

**CERTIFICATE OF DESIGNATIONS OF THE POWERS, PREFERENCES AND
RELATIVE, PARTICIPATING, OPTIONAL AND OTHER SPECIAL RIGHTS OF
PREFERRED STOCK AND QUALIFICATIONS, LIMITATIONS AND RESTRICTIONS
THEREOF**

Of

SERIES B

CONVERTIBLE PREFERRED STOCK

for

FLIGHT SAFETY TECHNOLOGIES, INC.

FLIGHT SAFETY TECHNOLOGIES, INC., a Nevada corporation (the "Corporation"), pursuant to the provisions of Section 78.1955 of the General Corporation Law of the State of Nevada, does hereby make this Certificate of Designations and does hereby state and certify that pursuant to the authority expressly vested in the Board of Directors of the Corporation by the Certificate of Incorporation of the Corporation, the Board of Directors duly adopted the following resolutions, which resolutions remain in full force and effect as of the date hereof:

RESOLVED, that, pursuant to Article Fourth of the Certificate of Incorporation of the Corporation, the Board of Directors hereby authorizes the issuance of, and fixes the designation and preferences and relative, participating, optional and other special rights, and qualifications, limitations and restrictions, of a series of preferred stock consisting of 50,000 shares, par value \$.001 per share, to be designated "Series B Convertible Preferred Stock" (the "Series B Preferred Shares"); and

RESOLVED, that each of the Series B Preferred Shares shall rank equally in all respects with the Series A Convertible Preferred Stock of the Company, par value \$.001 per share (the "Series A Preferred Shares," and together with the Series B Preferred Shares, the "Preferred Shares"), and that the Series B Preferred Shares shall be subject to the following terms and provisions:

1. **Designation.** There is hereby created out of the authorized and unissued shares of preferred stock of the Corporation a series of preferred stock designated as the "Series B Convertible Preferred Stock", par value \$.001 per share. The number of shares constituting such series shall be 50,000 shares.

2. **Dividends.**

(a) **Dividend Rate.** For so long as any Series B Preferred Shares are outstanding, the Corporation shall pay, at its discretion either: (i) a dividend payable in cash at a per annum rate of 8% of the Original Purchase Price (as defined below) per share; or (ii) a dividend payable in additional shares of Series B Preferred Shares at a per annum rate of 10% of



the Original Purchase Price per share; *provided, however*, that if the VWAP (as such term is defined below) for the common stock, par value \$.001 of the Corporation ("Common Stock") exceeds Fourteen Cents (\$0.14) per share with respect to any fiscal quarter, no dividends shall be due with respect to such fiscal quarter. Dividends shall be calculated on the basis of a 30-day month and a 360-day year. For purposes of calculating the number of Series B Preferred Shares to be issued as a dividend under Section 2(a)(ii) hereof, the Series B Preferred Shares to be issued shall be valued at a price per share equal to the Original Purchase Price. For purposes of this Certificate, the following terms shall have the meanings indicated:

"VWAP" means the quarterly volume-weighted average sale price per share of Common Stock on the principal market for any particular fiscal quarter as reported, as such figure may be adjusted for stock splits and combinations of the Common Stock.

(b) Dividend Payment Dates. The dividend payment dates for the Series B Preferred Shares are the first days of March, June, September, and December commencing December 1, 2009; provided that if any such payment date is not a Business Day (as defined below) then such dividend shall be payable on the next Business Day. The initial dividend period for any Series B Preferred Shares shall commence on the day when such shares are issued. The term "Business Day" means a day other than a Saturday, Sunday or day on which banking institutions in New York are authorized or required to remain closed.

(c) Consent. For so long as any Series B Preferred Shares are outstanding, the Corporation shall not pay any dividends on any shares of Common Stock (except for dividends payable in Common Stock) or any shares of any other capital stock other than on Series A Preferred Shares in accordance with the provisions of the Certificate of Designations of the Powers, Preferences and Relative, Participating, Optional and Other Special Rights of Preferred Stock and Qualifications, Limitations and Restrictions Thereof of Series A Convertible Preferred Stock of the Company, as in effect from time to time (the "Series A Certificate of Designations"), or repurchase any shares of Common Stock (other than the repurchase of shares of Common Stock issued pursuant to employment or consulting agreements with the Corporation, which are repurchased upon termination of employment or services for consideration no greater than the original issue price) or capital stock, without having received written consent of a majority of the votes attributable to the outstanding Preferred Shares (the "Required Holders"), voting separately from the holders of Common Stock.

3. Liquidation Events.

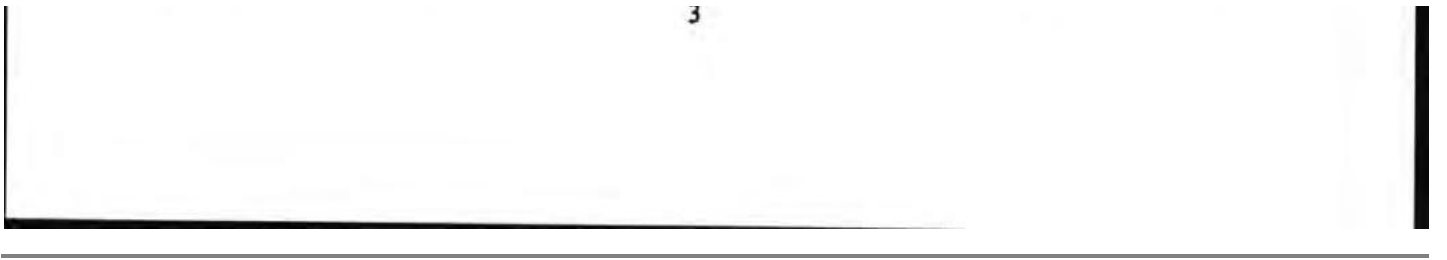
(a) Liquidation Preference. Upon (i) any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, or (ii) unless otherwise agreed by the Required Holders, (A) a merger or consolidation of the Corporation with or into another entity (except for a merger or consolidation in which the holders of capital stock of the Corporation immediately prior to such merger or consolidation continue to hold at least 50% of the outstanding voting power of such surviving Corporation), (B) the sale or transfer of all or substantially all of the assets of the Corporation (for this purpose "substantially all" shall mean properties or assets with a fair market value equal to 60% or more of the fair market value of the Corporation's total properties or assets as of the end of the most recent fiscal quarter and "sale" shall not include a bona fide pledge of assets), (C) any issuance of shares of capital stock by the



Corporation in one or more related transactions except for (x) an issuance of shares of capital stock in which the holders of capital stock of the Corporation immediately prior to such issuance of stock continue to hold at least 50% of the outstanding voting power of the Corporation after such issuance of shares of capital stock, (y) the issuance of Series A Preferred Shares on January 13, 2009, or (z) the issuance of Series B Preferred Shares on the Original Issue Date (as such term is defined below), or (D) the repurchase by the Corporation of shares of capital stock of the Corporation (other than the Series A Preferred Shares in accordance with the provisions of the Series A Certificate of Designations or the Series B Preferred Shares in accordance with the terms hereof) such that the holders of capital stock of the Corporation immediately prior to such repurchase do not hold at least 50% of the outstanding voting power of the Corporation after such repurchase (each of the transactions or events described in Sections (i) and (ii) (A) - (D) of this Section 3(a) is referred to as a "Liquidation Event" herein), each holder of outstanding Series B Preferred Shares shall be entitled to be paid out of the consideration payable to the stockholders of the Corporation (in the case of a merger or consolidation, for example) or of the consideration payable to the Corporation (net of obligations owed by the Corporation) together with all other available assets of the Corporation (in the case of an asset sale, for example), as the case may be, whether such assets are capital, surplus or capital earnings, on the same priority as other holders of Preferred Shares, but prior and in preference to any payments being paid to holders of Common Stock of the Corporation or other shares ranking junior to the Series B Preferred Shares, an amount in cash equal to \$100.00 per share (the "Original Purchase Price") plus any declared or accrued but unpaid dividends thereon (collectively with the Original Purchase Price per share, the "Preferred Share Liquidation Preference"); *provided* that if, upon any Liquidation Event, the Preferred Share Liquidation Preference as provided in this Section 3(a) is not paid in full, the holders of the Preferred Shares shall share ratably in any distribution of assets in proportion to the full respective preferential amounts to which they are entitled. For the avoidance of doubt, a sale of shares of capital stock of the Corporation by anyone other than the Corporation (for example a sale of shares of capital stock on the open market) shall not result in a Liquidation Event, notwithstanding a change of control of the Corporation, so long as such transaction does not otherwise fall under the provisions of (A) - (D) of this Section 3(a).

(b) Participation. After payment in the full of the Preferred Share Liquidation Preference, the holders of outstanding Preferred Shares and Common Stock shall share in any consideration payable to the stockholders of the Corporation (in the case of a stock repurchase, for example) or of the consideration payable to the Corporation (net of obligations owed by the Corporation) together with all other available assets of the Corporation (in the case of an asset sale, for example) pro rata (as if the Preferred Shares had been converted into Common Stock as of the date immediately prior to the date fixed for determination of stockholders entitled to receive such distribution). Notwithstanding the foregoing, if the amount which would be receivable if the Preferred Shares had been converted into Common Stock immediately prior to the Liquidation Event is greater than the amount which would be paid under the foregoing provisions of Section 3(a) and this Section 3(b), then the holders of the Preferred Shares shall be entitled to receive such greater amount.

(c) Surrender of Certificates. On the effective date of any Liquidation Event, the Corporation shall pay all consideration to which the holders of Series B Preferred Shares shall be entitled under this Section 3. Upon receipt of such payment, each holder of Series B



Preferred Shares shall surrender the certificate or certificates representing such shares, duly assigned or endorsed for transfer to the Corporation (or accompanied by duly executed stock powers relating thereto), at the principal executive office of the Corporation or the offices of the transfer agent for the Corporation, or shall notify the Corporation or any transfer agent that such certificates have been lost, stolen or destroyed, whereupon each surrendered certificate shall be canceled and retired.

(d) Notice. Prior to the occurrence of any Liquidation Event, the Corporation will furnish each holder of Series B Preferred Shares notice to each holder at its address shown on the records of the Corporation, together with a certificate prepared by the chief financial officer of the Corporation describing in reasonable detail the facts of such Liquidation Event, stating in reasonable detail the amount(s) per share of Series B Preferred Shares each holder of Series B Preferred Shares would receive pursuant to the provisions of Sections 3(a) and 3(b) hereof and stating in reasonable detail the facts upon which such amount was determined and describing (if applicable) in reasonable detail all material terms of such Liquidation Event, to the extent known by the Corporation, including without limitation the consideration to be delivered in connection with such Liquidation Event, the valuation of the Corporation at the time of such Liquidation Event and the identities of the parties to the Liquidation Event.

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

(a) Right to Convert. Each share of Series B Preferred Shares shall be convertible, in whole or in part, at the option of the holder thereof, at any time and from time to time, and without the payment of additional consideration by the holder thereof, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing (i) the Original Purchase Price by (ii) the Conversion Price (as defined below) in effect at the time of conversion; *provided, however*, that such conversion shall be mandatory in the event the Required Holders vote to convert all of the Preferred Shares. The "Conversion Price" for the Series B Preferred Shares shall initially be Ten Cents (\$0.10) on the Original Issue Date (as such term is defined below). Such Conversion Price, and the rate at which shares of Series B Preferred Shares may be converted into shares of Common Stock, shall be subject to adjustment as provided in Section 4(d) below.

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

(i) "Additional Shares of Common Stock" shall mean all shares of Common Stock issued or deemed to be issued by the Corporation after the date upon which a share of the Series B Preferred Shares was first issued (the "Original Issue Date"), other than:

(A) shares of Common Stock issued or issuable by reason of a dividend or other distribution on (x) the Series A Preferred Shares pursuant to the Series A Certificate of Designations, (y) the Series B Preferred Shares pursuant to Section 2(a) above or (z) shares of Common Stock that is covered by Section 4(f) or Section 4(g) below;



(B) shares of Common Stock issued or issuable upon conversion of shares of Preferred Shares;

(C) shares of Common Stock actually issued (as opposed to deemed issued under Section 4(d)(iii)) upon exercise of any Option or Convertible Security outstanding on the Original Issue Date;

(D) shares of Common Stock issued or deemed issued upon the exercise of any warrants (the "Credit Agreement Warrants") issued or issuable pursuant to the Credit Agreement, dated as of June 19, 2009 (as in effect from time to time, the "Credit Agreement") by and among the Company, the subsidiaries of the Company from time to time party thereto and Cummins Family Holdings, LLC;

(E) shares of Common Stock issued or issuable to employees, directors or consultants pursuant to equity incentive plans approved by the board of directors of the Corporation and adopted by the shareholders of the Corporation; or

(F) shares of Common Stock designated as exempt from the definition of Additional Shares of Common Stock by the Required Holders.

(ii) "Appraisal Procedure" shall be the procedure to determine fair market value of any security or other property (in either case, the "valuation amount"). If the Required Holders and the Board of Directors are not able to agree on the valuation amount within a reasonable period of time (not to exceed 20 days), the valuation amount shall be determined by an investment banking firm, which firm shall be unaffiliated with the Corporation and shall be reasonably acceptable to the Board of Directors and the Required Holders. If the Board of Directors and the Required Holders are unable to agree upon an acceptable investment banking firm within 10 days after the date either party proposed that one be selected, the investment banking firm will be selected by an arbitrator located in New York, New York selected by the American Arbitration Association (or if such organization ceases to exist, the arbitrator shall be chosen by a court of competent jurisdiction). The arbitrator shall select the investment banking firm (within 10 days of his appointment) from a list, jointly prepared by the Required Holders and the Board of Directors, of not more than four investment banking firms in the United States, of which no more than two may be named by the Board of Directors and no more than two may be named by the Required Holders. The arbitrator may consider, within the ten-day period allotted, arguments from the parties regarding which investment banking firm to choose, but the selection by the arbitrator shall be made in its sole discretion from the list of four. The Board of Directors and the Required Holders shall submit their respective valuations and other relevant data to the investment banking firm, and the investment banking firm shall as soon as practicable thereafter make its own determination of the valuation amount. The final valuation amount for purposes hereof shall be the average of the two valuation amounts closest together, as determined by the investment banking firm, from among the valuation amounts submitted by the



Corporation and the Required Holders and the valuation amount calculated by the investment banking firm. The determination of the final valuation amount by such investment banking firm shall be final and binding upon the parties. The Corporation shall pay the fees and expenses of the investment banking firm and arbitrator (if any) used to determine the valuation amount. If required by any such investment banking firm or arbitrator, the Corporation shall execute a retainer and engagement letter containing reasonable terms and conditions, including, without limitation, customary provisions concerning the rights of indemnification and contribution by the Corporation in favor of such investment banking firm or arbitrator and its officers, directors, partners, employees, agents and affiliates. If the valuation amount is for Common Stock of the Corporation, the valuation amount shall not include a discount for minority ownership or illiquidity or a control premium.

(iii) **"As-Converted Basis"** shall mean, for the purpose of determining the number of shares of Common Stock outstanding, a basis of calculation which takes into account (A) the number of shares of Common Stock actually issued and outstanding at the time of such determination, and (B) the number of shares of Common Stock that is then issuable upon the conversion of all outstanding Convertible Securities (as defined below), including without limitation, the Preferred Shares.

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

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

(c) **Mechanics of Conversion.**

(i) In order for a holder of Preferred Shares to convert shares of Preferred Shares into shares of Common Stock, such holder shall provide, at the office of the transfer agent for the Series B Preferred Shares (or at the principal office of the Corporation if the Corporation serves as its own transfer agent), written notice that such holder elects to convert all or any number of the shares of the Series B Preferred Shares represented by the certificate or certificates held by such holder. Such notice shall state such holder's name or the names of the nominees in which such holder wishes the certificate or certificates for shares of Common Stock to be issued; *provided*, that in the case the nominee is different than such holder, the holder shall also provide such additional documentation as the Corporation shall reasonably request to establish that such transfer is in compliance with the Securities Act of 1933, as amended. The date of receipt of such certificates and notice by the transfer agent (or by the Corporation if the Corporation serves as its own transfer agent) shall be the conversion date ("**Conversion Date**"). The Corporation shall, as soon as practicable after the Conversion Date, but in any event within 3 business days after the later of (A) the Conversion Date or (B) in the event the holder has requested that the shares be issued in the name of a nominee different than such holder, the date on which the holder provides such additional documentation as the Corporation shall reasonably request to establish that such transfer

is in compliance with the Securities Act of 1933, as amended, issue and deliver at such office to such holder of Series B Preferred Shares, or to his or its nominees, a certificate or certificates for the number of shares of Common Stock to which such holder shall be entitled, together with cash in lieu of any fraction of a share. On the Conversion Date, each holder of record of shares of Series B Preferred Shares to be surrendered for conversion shall be deemed to be the holder of record of the Common Stock issuable upon conversion of such Series B Preferred Shares, notwithstanding that the certificates representing such shares of Series B Preferred Shares shall not have been surrendered at the office of the Corporation, that notice from the Corporation shall not have been received by any holder of record of shares of such Preferred Shares, or that the certificates evidencing such shares of Common Stock shall not then be actually delivered to such holder.

(ii) At all times when any Preferred Shares are outstanding, the Corporation shall reserve and keep available out of its authorized but unissued stock, for the purpose of effecting the conversion of the Preferred Shares, such number of its duly authorized shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding Preferred Shares. The Corporation promptly will take such corporate action as may be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purpose, including without limitation engaging in best efforts to obtain the requisite stockholder approval. Before taking any action which would cause an adjustment reducing any Conversion Price below the then par value of the shares of Common Stock issuable upon conversion of the applicable Preferred Shares, the Corporation will take any corporate action which may be necessary in order that the Corporation may validly and legally issue fully paid and nonassessable shares of Common Stock at such adjusted Conversion Price.

(iii) All shares of Series B Preferred Shares which shall have been surrendered for conversion as herein provided shall no longer be deemed to be outstanding and all rights with respect to such shares, including the rights, if any, to receive notices and to vote, shall immediately cease and terminate on the Conversion Date, except only the right of the holders thereof to receive shares of Common Stock in exchange therefor and payment of any dividends declared but unpaid thereon. Any shares of Series B Preferred Shares so converted shall be retired and cancelled and shall not be reissued, and the Corporation (without the need for stockholder action) may from time to time take such appropriate action as may be necessary to reduce the authorized number of shares of Series B Preferred Shares accordingly.

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

of any such tax or has established, to the satisfaction of the Corporation, that such tax has been paid.

(d) Adjustments to Conversion Price for Diluting Issues.

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

(ii) *Full Ratchet; Weighted Average.*

(A) *Full Ratchet.* If the Corporation at any time or from time to time prior to the one (1) year anniversary of the Original Issue Date shall issue any Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Section 4(d)(iii) below but excluding shares issued as stock split or combination as provided in Section 4(f) below, issued upon a dividend or distribution as provided in Section 4(g) below or deemed to be issued upon a dividend of Series A Preferred Shares as provided in the Series A Certificate of Designations or upon a dividend of Series B Preferred Shares as provided in Section 2(a) above) without consideration or for consideration per share lower than the Conversion Price in effect on the date of and immediately prior to such issue, the Conversion Price for the Series B Preferred Shares shall be lowered to equal such consideration per share. For purposes of this Section 4(d)(ii), any Additional Shares of Common Stock issued for no consideration shall be deemed to be issued for a consideration per share of \$.001, subject to adjustments for Common Stock splits, dividends, and combinations.

(B) *Weighted Average.* If the Corporation at any time or from time to time on or after the one (1) year anniversary of the Original Issue Date shall issue any Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Section 4(d)(iii) below but excluding shares issued as stock split or combination as provided in Section 4(f) below, issued upon a dividend or distribution as provided in Section 4(g) below or deemed to be issued upon a dividend of Series A Preferred Shares in the Series A Certificate of Designations or upon a dividend of Series B Preferred Shares as provided in Section 2(a) above) without consideration or for consideration per share lower than the Conversion Price in effect on the date of and immediately prior to such issue, then in such event the Conversion Price for the Series B Preferred Shares shall be lowered to an amount determined by multiplying the Conversion Price in effect immediately prior to such issue by a fraction, (x) the numerator of which shall be the sum of (1) the number of shares of Common Stock outstanding immediately prior to such issue (on an As-

Converted Basis) plus (2) the number of shares of Common Stock which the aggregate consideration received or to be received by the Company for such Additional Shares of Common Stock would purchase at such Conversion Price, and (y) the denominator of which shall be the sum of (1) the number of shares of Common Stock outstanding immediately prior to such issue (on an As-Converted Basis) plus (2) the number of such Additional Shares of Common Stock so issued and/or deemed to be issued. For purposes of this Section 4(d)(ii), any Additional Shares of Common Stock issued for no consideration shall be deemed to be issued for a consideration per share of \$.001, subject to adjustments for Common Stock splits, dividends, and combinations.

(iii) *Issue of Securities, Deemed Issue of Additional Shares of Common Stock.* If the Corporation at any time or from time to time after the Original Issue Date shall issue any Options or Convertible Securities (other than (i) the Credit Agreement Warrants, (ii) Series B Preferred Shares issued as provided in Section 2(a) above, or (iii) Series A Preferred Shares issued as provided in the Series A Certificate of Designations) or shall fix a record date for the determination of holders of any class of securities entitled to receive any such Options or Convertible Securities, then the maximum number of shares of Common Stock (as set forth in the instrument relating thereto without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or, in the case of Convertible Securities and Options therefor, the conversion or exchange of such Convertible Securities, shall be deemed to be Additional Shares of Common Stock issued as of the time of such issue or, in case such a record date shall have been fixed, as of the close of business on such record date, provided that in any such case in which Additional Shares of Common Stock are deemed to be issued:

(A) No further adjustment in the Conversion Price shall be made upon the subsequent issue of Convertible Securities or shares of Common Stock upon (1) upon the exercise or conversion of any Options or Convertible Securities outstanding as of the Original Issue Date; (2) upon the exercise of any Options by employees, directors, or consultants pursuant to equity incentive plans approved by the board of directors of the Corporation and adopted by the shareholders of the Corporation; (3) upon the conversion of the Series A Preferred Shares; (4) upon the conversion of the Series B Preferred Shares; or (5) in connection with the issuance or exercise of the Credit Agreement Warrants;

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

rights of conversion or exchange under such Convertible Securities;

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

- 1) in the case of Convertible Securities or Options for Common Stock, the only Additional Shares of Common Stock issued were the shares of Common Stock, if any, actually issued upon the exercise of such Options or the conversion or exchange of such Convertible Securities and the consideration received therefor was the consideration actually received by the Corporation for the issue of all such Options, whether or not exercised, plus the consideration actually received by the Corporation upon such exercise, or for the issue of all such Convertible Securities which were actually converted or exchanged, plus the additional consideration, if any, actually received by the Corporation upon such conversion or exchange; and
- 2) in the case of Options for Convertible Securities, only the Convertible Securities, if any, actually issued upon the exercise thereof were issued at the time of issue of such Options, and the consideration received by the Corporation for the Additional Shares of Common Stock deemed to have been then issued was the consideration actually received by the Corporation for the issue of all such Options, whether or not exercised, plus the consideration deemed to have been received by the Corporation upon the issue of the Convertible Securities with respect to which such Options were actually exercised;

(D) In the event of any change in the number of shares of Common Stock issuable upon the exercise, conversion or exchange of any Option or Convertible Security, the Conversion Price then in effect shall forthwith be readjusted to such Conversion Price as would have obtained had the adjustment which was made upon the issuance of such Option or Convertible Security not exercised or converted prior to such change been made upon the basis of such change; and

(E) No readjustment pursuant to clause (B), (C) or (D) above shall have the effect of increasing the Conversion Price to an amount which exceeds the lower of (1) the Conversion Price on the original adjustment date, or (2) the Conversion Price that would have resulted from any



issuances of Additional Shares of Common Stock between the original adjustment date and such readjustment date.

In the event the Corporation, after the Original Issue Date, amends any Options or Convertible Securities (whether such Options or Convertible Securities were outstanding on the Original Issue Date or were issued after the Original Issue Date) to increase the number of shares issuable thereunder or decrease the consideration to be paid upon exercise or conversion thereof, then such Options or Convertible Securities, as so amended, shall be deemed to have been issued after the Original Issue Date and the provisions of this Section 4(d)(iii) shall apply.

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

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

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

(B) insofar as it consists of property other than cash, be computed at the fair market value thereof at the time of such issue, as determined in good faith by the Board of Directors, or if requested by the Required Holders, by agreement of the Board of Directors and the Required Holders, and if the Board of Directors and the Required Holders do not agree on such fair market value, in accordance with the procedures set forth in the definition of Appraisal Procedure; and

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

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

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



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Convertible Securities and the conversion or exchange of such Convertible Securities, by

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

(f) *Adjustment for Stock Splits and Combinations.* If the Corporation shall at any time or from time to time after the Original Issue Date effect a subdivision of the outstanding Common Stock, each Conversion Price then in effect immediately before that subdivision shall be proportionately decreased. If the Corporation shall at any time or from time to time after the Original Issue Date combine the outstanding shares of Common Stock, each Conversion Price then in effect immediately before the combination shall be proportionately increased. Any adjustment under this paragraph shall become effective at the close of business on the date the subdivision or combination becomes effective.

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

(i) the numerator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date, and

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

provided, however, if such record date shall have been fixed and such dividend is not fully paid or if such distribution is not fully made on the date fixed therefor, the applicable Conversion Price shall be recomputed accordingly as of the close of business on such record date and thereafter each Conversion Price shall be adjusted pursuant to this paragraph as of the time of actual payment of such dividends or distributions.

(h) *Adjustment for Reclassification, Exchange, or Substitution.* If the Common Stock issuable upon the conversion of the Series B Preferred Shares shall be changed into the same or a different number of shares of any class or classes of stock, whether by capital reorganization, reclassification, or otherwise (other than a subdivision or combination of shares or stock dividend provided for above, or a reorganization, merger, consolidation, or sale of assets provided for below), then and in each such event the holder of each such share of Series B

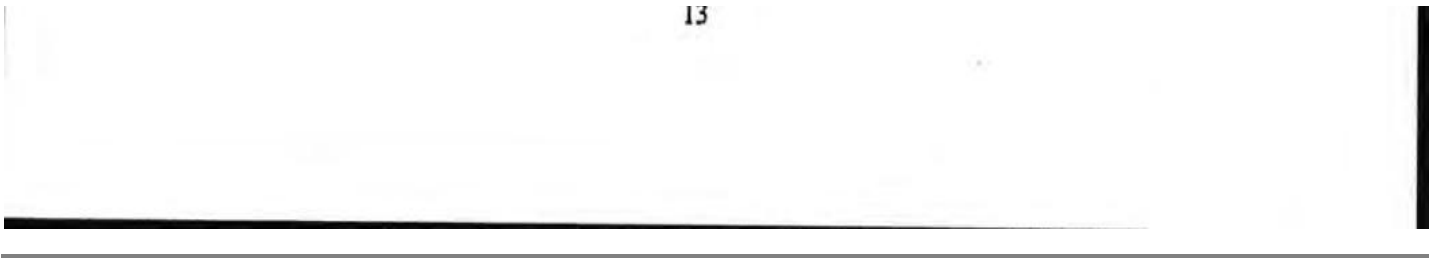


Preferred Shares shall have the right thereafter to convert such share into the kind and amount of shares of stock and other securities and property receivable, upon such reorganization, reclassification, or other change, by holders of the number of shares of Common Stock into which such shares of Series B Preferred Shares might have been converted immediately prior to such reorganization, reclassification, or change, all subject to further adjustment as provided herein.

(i) *Adjustment for Merger or Reorganization, Etc.* In case of any consolidation or merger of the Corporation with or into another company or the sale of all or substantially all of the assets of the Corporation to another company, each share of Series B Preferred Shares, if any, remaining outstanding after such consolidation, merger or sale shall thereafter be convertible (or shall be converted into a security which shall be convertible) into the kind and amount of shares of stock or other securities or property to which a holder of the number of shares of Common Stock of the Corporation deliverable upon conversion of such Series B Preferred Shares would have been entitled upon such consolidation, merger or sale; and, in such case, appropriate adjustment shall be made in the application of the provisions in this Section 4 set forth with respect to the rights and interest thereafter of the holders of the Series B Preferred Shares, to the end that the provisions set forth in this Section 4 (including provisions with respect to changes in and other adjustments of the Conversion Price) shall thereafter be applicable, as nearly equivalent a manner as may be practicable as before the consolidation or merger. If any event occurs of the type contemplated by the provisions of this Section 4 but not expressly provided for by such provisions (including, without limitation, the granting of stock appreciation rights, phantom stock rights or other rights with equity features), then the Corporation's Board of Directors shall make an appropriate reduction in each Conversion Price so as to protect the rights of the holders of the Series B Preferred Shares.

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

(k) *Fractional Shares.* No fractional shares of Common Stock shall be issued upon conversion of the Series B Preferred Shares. In lieu of any fractional shares to which the holder would otherwise be entitled, the Corporation shall pay cash equal to the product of such fraction multiplied by the fair market value of a share of Common Stock, as mutually agreed by the Board of Directors of the Corporation and the Required Holders; *provided, however*, that if such mutual agreement cannot be reached, such fair market value shall be determined by following the Appraisal Procedures. The determination of fractional shares shall be based on the aggregate number of shares of Series B Preferred Shares surrendered for conversion by any holder of Series B Preferred Shares and not on the individual shares of Series B Preferred Shares held by such holder.



- (1) *Notice of Record Date.* In the event:
- (i) that the Corporation declares a dividend (or any other distribution) on its Common Stock payable in Common Stock or other securities of the Corporation;
 - (ii) that the Corporation subdivides or combines its outstanding shares of Common Stock;
 - (iii) of any reclassification of the Common Stock of the Corporation (other than a subdivision or combination of its outstanding shares of Common Stock or a stock dividend or stock distribution thereon), or of any consolidation or merger of the Corporation into or with another company, or of the sale of all or substantially all of the assets of the Corporation; or
 - (iv) of the involuntary or voluntary dissolution, liquidation or winding up of the Corporation;

then the Corporation shall cause to be filed at its principal office or at the office of the transfer agent of the Series B Preferred Shares, and shall cause to be mailed to the holders of the Series B Preferred Shares at their last addresses as shown on the records of the Corporation or such transfer agent, at least ten (10) days prior to the date specified in (1) below or 20 days before the date specified in (2) below, a notice stating

- (1) the record date of such dividend, distribution, subdivision or combination, or, if a record is not to be taken, the date as of which the holders of Common Stock of record to be entitled to such dividend, distribution, subdivision or combination are to be determined, or
- (2) the date on which such reclassification, consolidation, merger, sale, dissolution, liquidation or winding up is expected to become effective, and the date as of which it is expected that holders of Common Stock of record shall be entitled to exchange their shares of Common Stock for securities or other property deliverable upon such reclassification, consolidation, merger, sale, dissolution or winding up.

5. **Voting Rights.**

(a) *Preferred Shares Voting Together.* Except as provided in Section 5(d)(i), Section 5(d)(iv), Section 5(d)(v) and Section 5(d)(ix) below, the holders of Preferred Shares shall vote together on all matters as a single class, with each Preferred Share entitled to cast the number of votes equal to the number of shares of Common Stock into which each may be converted (as adjusted from time to time pursuant to the Series A Certificates of Designations (with respect to the Series A Preferred Shares) and pursuant to Section 4 hereof (with respect to the Series B Preferred Shares)).

(b) *Voting with Common.* Except as provided in Section 5(b) and Section 5(c) below or as otherwise expressly set forth herein, the holders of Preferred Shares shall vote together with the Common Stock on all matters as a single class, with each Preferred Share entitled to cast the number of votes equal to the number of shares of Common Stock into which it



may be converted (as adjusted from time to time pursuant to Section 4 hereof) as of the record date.

(c) *Common Voting First on Certain Matters.* In addition to all other requirements imposed by Nevada law, and all other voting rights granted under the Corporation's Articles of Incorporation, as supplemented by this Certificate, the Corporation shall not undertake (i) any transaction giving rise to a Liquidation Event or (ii) any redemption of Preferred Shares, without the prior approval of the Common Stock voting as a single class. If such transaction referred in clause (i) or (ii) hereof is first approved by the requisite number of holders of Common Stock, such matter shall then be put to the vote of the holders Preferred Shares and Common Stock, voting together as a single class, with each Preferred Share entitled to cast the number of votes equal to the number of Common Stock into which it may be converted (as adjusted from time to time pursuant to the Series A Certificate of Designations (with respect to the Series A Preferred Shares) and pursuant to the Section 4 hereof (with respect to the Series B Preferred Shares)) as of the record date. For purposes of such joint vote, (A) any shares of Common Stock voted in favor of the transaction when voting as a single class shall be considered to have voted in favor of the transaction when voting together with the Preferred Shares, (B) any shares of Common Stock voted against the transaction when voting as a single class shall be considered to have voted against the transaction when voting together with the Preferred Shares and (C) any shares of Common Stock not voted on the transaction when voting as a single class shall be considered to have not voted on the transaction when voting together with the Preferred Shares.

(d) *Voting as Separate Class.* In addition to all other requirements imposed by Nevada law, and all other voting rights granted under the Corporation's Articles of Incorporation, as supplemented by the Series A Certificate of Designation and this Certificate, the Corporation shall not, and shall not permit any company or trust of which the Corporation directly or indirectly owns at the time 50% or more of the outstanding shares that represent either 50% of the voting power, 50% of the economic power, or control of the board of directors of such company or trust, other than directors' qualifying shares (a "Subsidiary") to, without the prior written consent of Required Holders voting together as a single class:

(i) amend, modify or repeal the Series A Certificate of Designations or this Certificate of Designations (whether by reclassification, merger, consolidation, reorganization or otherwise); *provided, however*, that any such amendment, modification or repeal shall also require the prior written consent of holders of a majority of the votes attributable to each of the outstanding Series A Preferred Shares and the Series B Preferred Shares, voting separately, with each Preferred Share entitled to cast the number of votes equal to the number of shares of Common Stock into which each may be converted (as adjusted from time to time pursuant to the Series A Certificate of Designations (with respect to the Series A Preferred Shares) and pursuant to Section 4 hereof (with respect to the Series B Preferred Shares));

(ii) enter into any reclassification, merger, consolidation or reorganization;

(iii) increase or decrease (whether by amendment to the Articles of



Incorporation or by reclassification, merger, consolidation, reorganization or otherwise) the number of authorized Preferred Shares;

(iv) authorize or issue (by amendment to the Articles of Incorporation or by reclassification, merger, consolidation, reorganization or otherwise) any class or series of capital stock or securities convertible into capital stock with equal or superior rights to those of the Series A Preferred Shares or the Series B Preferred Shares; *provided, however*, that if any such class or series of capital stock or securities convertible into capital stock is superior to the rights of either the Series A Preferred Shares or the Series B Preferred Shares, but not the other, such authorization and issuance must also be approved by holders of a majority of the votes attributable to such junior series, voting separately, with each Preferred Share entitled to cast the number of votes equal to the number of shares of Common Stock into which each may be converted (as adjusted from time to time pursuant to the Series A Certificate of Designations (with respect to the Series A Preferred Shares) and pursuant to Section 4 hereof (with respect to the Series B Preferred Shares));

(v) whether by amendment to the Articles of Incorporation or by reclassification, merger, consolidation, reorganization or otherwise, (i) alter, amend or waive any rights, preferences or privileges of the Preferred Shares or (ii) otherwise alter, amend or waive any provisions of the Corporation's Articles of Incorporation or by-laws in a manner adverse to the holders of the Preferred Shares; *provided, however*, that if only one of the Series B Preferred Shares or Series A Preferred Shares is affected, but not the other, such act must be approved by holders of a majority of the votes attributable to such affected series, voting separately, with each Preferred Share entitled to cast the number of votes equal to the number of shares of Common Stock into which each may be converted (as adjusted from time to time pursuant to the Series A Certificate of Designations (with respect to the Series A Preferred Shares) and pursuant to Section 4 hereof (with respect to the Series B Preferred Shares));

(vi) authorize, declare or pay any dividend (other than dividends payable solely in Common Stock) on any share of the capital stock of the Corporation or any Subsidiary, with the exception of the dividends on the Series A Preferred Shares set forth in the Series A Certificate of Designations or the Series B Preferred Shares set forth in Section 2 hereof;

(vii) redeem, purchase or otherwise acquire for value any share or shares of the capital stock of the Corporation or any Subsidiary;

(viii) authorize or issue (by amendment to the Articles of Incorporation or by reclassification, merger, consolidation reorganization or otherwise) any additional Series B Preferred Shares; or

(ix) authorize or issue (by amendment to the Articles of Incorporation or by reclassification, merger, consolidation, reorganization or otherwise) any additional Series A Preferred Shares; *provided, however*, that such an issuance must also be approved by holders of a majority of the votes attributable to the Series B Preferred



Shares, voting separately, with each Series B Preferred Share entitled to cast the number of votes equal to the number of shares of Common Stock into which each may be converted (as adjusted from time to time pursuant to this Certificate).

6. **Notices.** The Corporation shall distribute to the holders of Series B Preferred Shares copies of all notices, materials, annual and quarterly reports, proxy statements, information statements and any other documents distributed generally to the holders of shares of Common Stock of the Corporation, at such times and by such method as such documents are distributed to such holders of such Common Stock.

7. **Replacement Certificates.** The certificate(s) representing the Series B Preferred Shares held by any holder of Series B Preferred Shares may be exchanged by such holder at any time and from time to time for certificates with different denominations representing an equal aggregate number of Series B Preferred Shares, as reasonably requested by such holder, upon surrendering the same. No service charge will be made for such registration or transfer or exchange.

8. **Attorneys' Fees.** In connection with enforcement by a holder of Series B Preferred Shares of any obligation of the Corporation hereunder, the prevailing party shall be entitled to recovery of reasonable attorneys' fees and expenses incurred.

9. **No Reissuance.** No Series B Preferred Shares acquired by the Corporation by reason of redemption, purchase, conversion or otherwise shall be reissued.

10. **Severability of Provisions.** If any right, preference or limitation of the Series B Preferred Shares set forth in this Certificate of Designations (as this Certificate of Designations may be amended from time to time) is found to be invalid, unlawful or incapable of being enforced by reason of any rule or law or public policy, all other rights, preferences and limitations set forth in this Certificate of Designations, which can be given effect without the invalid, unlawful or unenforceable right, preference or limitation, shall nevertheless remain in full force and effect, and no right, preference or limitation herein set forth be deemed dependent upon any such other right, preference or limitation unless so expressed herein.

11. **Specific Performance.** The Corporation acknowledges and agrees that irreparable damage would occur in the event that the Corporation failed to perform any of the provisions of this Certificate in accordance with its specific terms. It is accordingly agreed that each holder of Series B Preferred Shares shall be entitled to an injunction or injunctions to prevent or cure breaches of the provisions of this Certificate and to enforce specifically the terms and provisions hereof, this being in addition to any other remedy to which such holder may be entitled by law or equity.

Signed on September 9, 2009

FLIGHT SAFETY TECHNOLOGIES, INC.

FLIGHT SAFETY TECHNOLOGIES, INC.

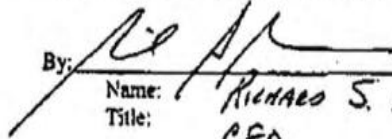
By: 
Name: RICHARD S. ROSENFELD
Title: CFO



EXHIBIT C
SERIES C DESIGNATION
[See attached.]

[Exhibit C]

**CERTIFICATE OF DESIGNATIONS
OF THE POWERS, PREFERENCES AND
RELATIVE, PARTICIPATING, OPTIONAL AND OTHER RESTRICTIONS
OF SERIES C PREFERRED STOCK
OF APPLIED BLOCKCHAIN, INC.**

Section 1.1 Designation. As of the effective date of this Certificate, there is hereby created out of the authorized preferred stock of the Corporation a series of preferred stock designated as "Series C Convertible Redeemable Preferred Stock" (the "*Series C Preferred Stock*"), par value \$0.001 per share. The Series C Preferred Stock shall rank senior in all respects to the Series A Convertible Preferred Stock of the Corporation (the "*Series A Preferred Stock*") and the Series B Convertible Preferred Stock of the Corporation (the "*Series B Preferred Stock*" and together with the Series A Preferred Stock, the "*Junior Preferred Stock*", and together with the Series A Preferred Stock and the Series C Preferred Stock, the "*Preferred Stock*"). The following rights, powers and privileges, and restrictions, qualifications and limitations, shall apply to the Series C Preferred Stock.

(a) Liquidation, Dissolution or Winding Up; Certain Mergers, Consolidations and Asset Sales.

(i) Payments to Holders of Series C Preferred Stock. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation or any Deemed Liquidation Event (as defined below), before any payment shall be made to the holders of the Junior Preferred Stock or Common Stock by reason of their ownership thereof, the holders of shares of Series C Preferred Stock then outstanding shall be entitled to be paid out of the funds and assets available for distribution to the stockholders of the Corporation, an amount per share equal to the Stated Value (as defined below) for such share of Series C Preferred Stock, plus an amount per share equal to the Stated Value of any shares of Series C Preferred Stock that are issuable as the result of accrued, but unpaid, PIK Dividends (as defined below). If upon any such liquidation, dissolution or winding up or Deemed Liquidation Event of the Corporation, the funds and assets available for distribution to the stockholders of the Corporation shall be insufficient to pay the holders of shares of Series C Preferred Stock the full amount to which they are entitled under this Section 1.1(a)(i), the holders of shares of Series C Preferred Stock shall share ratably in any distribution of the funds and assets available for distribution in proportion to the respective amounts that would otherwise be payable in respect of the shares of Series C Preferred Stock held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full. The "*Stated Value*" shall mean Twenty-Five United States Dollars and No Cents (\$25.00) per share, subject to an equitable adjustment for stock splits, stock combinations, recapitalizations and similar transactions.

(ii) Payments to Holders of Junior Preferred Stock and Common Stock. In the event of any voluntary or involuntary liquidation, dissolution or winding up or Deemed Liquidation Event of the Corporation, after the payment of all preferential amounts required to be paid to the holders of shares of Series C Preferred Stock as provided in Section 1.1(a)(i), the remaining funds and assets available for distribution to the stockholders of the Corporation shall



be distributed among the holders of shares of the Junior Preferred Stock according to the terms thereof and then among the holders of shares of Common Stock, pro rata based on the number of shares of Common Stock held by each such holder.

(iii) Deemed Liquidation Events.

(A) Definition. Each of the following events shall be considered a “*Deemed Liquidation Event*” unless the holders of at least a majority of the outstanding shares of Series C Preferred Stock (voting as a single class on an as-converted basis) (the “*Requisite Holders*”) elect otherwise by written notice sent to the Corporation at least five (5) days prior to the effective date of any such event:

(1) a merger or consolidation in which (I) the Corporation is a constituent party or (II) a subsidiary of the Corporation is a constituent party and the Corporation issues shares of its capital stock pursuant to such merger or consolidation, except any such merger or consolidation involving the Corporation or a subsidiary in which the shares of capital stock of the Corporation outstanding immediately prior to such merger or consolidation continue to represent, or are converted into or exchanged for equity securities that represent, immediately following such merger or consolidation, at least a majority, by voting power, of the equity securities of (x) the surviving or resulting party or (y) if the surviving or resulting party is a wholly owned subsidiary of another party immediately following such merger or consolidation, the parent of such surviving or resulting party; *provided* that, for the purpose of this Section 1.1(a)(iii)(A), all shares of Common Stock issuable upon exercise of options outstanding immediately prior to such merger or consolidation or upon conversion of Convertible Securities (as defined below) outstanding immediately prior to such merger or consolidation shall be deemed to be outstanding immediately prior to such merger or consolidation and, if applicable, deemed to be converted or exchanged in such merger or consolidation on the same terms as the actual outstanding shares of Common Stock are converted or exchanged; or

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

Notwithstanding the foregoing, a Significant Transaction Event (as defined below) shall not be considered a Deemed Liquidation Event.

(B) Public Offering or Listing Facilitation Transaction. Under no circumstances shall a public offering of the Corporation’s securities, including a public offering that results in a change of control of the Corporation, or a merger or other business combination or issuance of securities of the Corporation designed to increase the number of stockholders of the Corporation in order to facilitate a listing on a Trading Market (as such term is defined in that certain Registration Rights Agreement, dated as of [April 15], 2021, by and between the Corporation and the purchasers of the Series C Preferred Stock (the “*Registration Rights*”



Agreement")) be considered a voluntary or involuntary liquidation, dissolution or winding up of the Corporation or a Deemed Liquidation Event.

(C) Allocation of Escrow. In the event of a Deemed Liquidation Event pursuant to Section 1.1(a)(iii)(A)(1)(I), if any portion of the consideration payable to the stockholders of the Corporation is placed into escrow, the definitive agreement for such transaction shall provide that the portion of such consideration that is placed in escrow shall be allocated among the holders of capital stock of the Corporation pro rata based on the amount of such consideration otherwise payable to each stockholder (such that each stockholder has placed in escrow the same percentage of the total consideration payable to such stockholder as every other stockholder).

(D) Amount Deemed Paid or Distributed. The funds and assets deemed paid or distributed to the holders of capital stock of the Corporation upon any such merger, consolidation, sale, transfer or other disposition described in this Section 1.1(a)(iii) shall be the cash or the value of the property, rights or securities paid or distributed to such holders by the Corporation or the acquiring person, firm or other entity. The value of such property, rights or securities shall be determined in good faith by the Board.

(b) Voting. Holders of shares of Series C Preferred Stock shall vote together with holders of Common Stock on an as-if converted to Common Stock basis on any matters coming before the stockholders of the Corporation for a vote. Notwithstanding the foregoing, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation, recapitalization, reclassification, or otherwise, do any of the following without (in addition to any other vote required by law or this Certificate) the written consent or affirmative vote of the Requisite Holders given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class, and any such act or transaction entered into without such consent or vote shall be null and void ab initio, and of no force or effect:

(i) materially change the principal business of the Corporation unless in connection with a Significant Transaction Event; or

(ii) except in connection with a Significant Transaction Event, sell, lease, transfer, exclusively license or otherwise dispose (in a single transaction or series of related transactions) of all or substantially all of the assets of the Corporation or permit any direct or indirect subsidiary to do so; provided, however, that no consent or vote of the Requisite Holders shall be required in connection with sales of mining equipment in the ordinary course of the Corporation's business and in a manner consistent with the principal business of the Corporation.

(c) Dividends.

(i) Dividends Generally. The holders of shares of Series C Preferred Stock shall be entitled to receive, and the Corporation shall pay, dividends on shares of Series C Preferred Stock equal (on an as if converted to Common Stock basis) to and in the same form as dividends actually paid on shares of the Common Stock when, as and if such dividends are paid on shares of the Common Stock. Except as set forth in this Section 1.1(c)(i) and for PIK Dividends (as defined below), no other dividends shall be paid on shares of Series C Preferred Stock.

(ii) PIK Dividends. The Corporation shall be required to pay a dividend in fully paid and non-assessable shares of Series C Preferred Stock (each a "*PIK Dividend*" and, collectively, the "*PIK Dividends*") equal to the percentage of Stated Value set forth below upon the occurrence of each of the following events:

(A) Failure to File. If the Corporation has not filed or confidentially submitted a registration statement (the "*Registration Statement*") to register the shares of Common Stock issuable upon conversion of the Series C Preferred Stock (the "*Registrable Securities*") on or before the date that is four (4) months following the date that the first share of Series C Preferred Stock is issued (the "*Original Issue Date*"), the Corporation shall accrue daily a PIK Dividend equal to ten percent (10%) per annum of Stated Value;

(B) Failure to be Declared Effective and to List. If the Registration Statement has not been declared effective by the U.S. Securities and Exchange Commission (the "*SEC*") on or before the date that is eight (8) months after the Original Issue Date and/or the Registrable Securities are not listed on a Trading Market on or before the date that is twelve (12) months after Original Issue Date, the Corporation shall accrue daily a PIK Dividend of twelve percent (12%) per annum of Stated Value, or fifteen percent (15%) per annum of Stated Value for each day such failure continues after eighteen (18) months after the Original Issue Date. Such PIK Dividend shall be instead of, and not in addition to, any PIK Dividend also accruing under Section 1.1(c)(ii)(A); and

(C) Mandatory Redemption Failure. If the Corporation fails to complete a Mandatory Redemption (as defined below) when required to do so, it shall continue to pay a PIK Dividend in accordance with Section 1.1(c)(ii)(B).

The PIK Dividends shall be paid by delivering to each record holder of Series C Preferred Stock a number of shares of Series C Preferred Stock determined by dividing (x) the total aggregate dollar amount of dividends accrued and unpaid with respect to Series C Preferred Stock owned by such record holder (rounded to the nearest whole cent) by (y) the Stated Value.

Notwithstanding the foregoing, PIK Dividends shall cease cumulating and accruing upon the earliest to occur of (1) the date of the satisfaction of the conditions set forth in Section 1.1(c)(ii)(A), Section 1.1(c)(ii)(B) and Section 1.1(c)(ii)(C) that gave rise to such PIK Dividend (any such date, a "*PIK Dividend Satisfaction Date*"), and (2) any Conversion Date (as defined below) or Optional Conversion Date (as defined below). Upon a simultaneous or consecutive occurrence of two or more events that trigger the accrual of PIK Dividends on one or more days, PIK Dividends shall accrue on each issued and outstanding share of Series C Preferred Stock as if only one triggering event had occurred, such that the accrual of PIK Dividends in accordance with this Section 1.1(c)(ii) shall not be doubled, tripled or otherwise multiplied due to the existence of multiple events causing the accrual of PIK Dividends.

Notwithstanding the foregoing, (I) if within six (6) months of the Original Issue Date, the Corporation enters into a binding definitive agreement or binding instrument relating to a Significant Transaction Event (a "*Definitive Instrument*"), then the Corporation shall have no obligation to pay any PIK Dividends accrued or payable through such date, and (II) if the Corporation has entered into a Definitive Instrument within six (6) months of the Original Issue Date and has consummated the



Significant Transaction Event within ten (10) months of the Original Issue Date, then the Corporation shall have no obligation to pay any PIK Dividends accrued or payable through such date. A "**Significant Transaction Event**" means a merger, share exchange, sale of all or substantially all of the assets of the Corporation or other business combination, restructuring or change of control transaction, including any such transaction intended to result in the Corporation becoming subject to the reporting requirements of Section 13 of 15(d) of the Exchange Act (or becoming a voluntary filer under the Exchange Act), a business combination intended to increase the number of shareholders of the Corporation to facilitate listing on a Trading Market, a business combination with a special purpose acquisition company, or a business combination with a company that is listed on a Trading Market.

(d) Automatic Conversion.

(i) Trigger Event. On the Conversion Date (as defined below), each share of Series C Preferred Stock shall be automatically converted (without the payment of additional consideration by the holder thereof), into such number of fully paid and non-assessable shares of Common Stock as is determined by dividing the Stated Value by the Conversion Price in effect on the Conversion Date. The "**Conversion Price**" shall initially be equal to \$0.13. Such initial Conversion Price, and the rate at which shares of Series C Preferred Stock may be converted into shares of Common Stock, shall be subject to adjustment as provided below. For purposes hereof, "**Conversion Date**" means (A) the date that the Registration Statement is declared effective by the SEC or (B) the date on which a Significant Transaction Event occurs.

(ii) Mechanics of Conversion. All holders of record of Series C Preferred Stock shall be sent written notice of the Conversion Date and the place designated for conversion of all such shares of Series C Preferred Stock pursuant to this Section 1.1(d). Such notice need not be sent in advance of the occurrence of the Conversion Date. Upon receipt of such notice, each holder of Series C Preferred Stock shall, if such holder's shares are certificated, surrender his, her or its certificate or certificates for all such shares (or, if such holder of Series C Preferred Stock alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation and its transfer agent to indemnify the Corporation and/or its transfer agent against any claim that may be made against the Corporation and/or its transfer agent on account of the alleged loss, theft or destruction of such certificate) to the Corporation at the place designated in such notice. If so required by the Corporation or its transfer agent, any certificates surrendered for conversion shall be endorsed or accompanied by written instrument or instruments of transfer, in form satisfactory to the Corporation or its transfer agent, duly executed by the registered holder of shares of Series C Preferred Stock or by his, her or its attorney duly authorized in writing. All rights with respect to the Series C Preferred Stock converted pursuant to this Section 1.1(d) will terminate at the Conversion Date (notwithstanding the failure of the holder or holders of Series C Preferred Stock to surrender any certificates at or prior to such time), except only for the rights of the holders of Series C Preferred Stock, upon surrender, if applicable, of their certificate or certificates (or lost certificate affidavit and agreement), to receive the items provided for in the next sentence of this Section 1.1(d)(ii). As soon as practicable after the Conversion Date and, if applicable, the surrender of the certificate or certificates (or lost certificate affidavit and agreement) for Series C Preferred Stock, the Corporation shall issue and deliver to such holder of Series C Preferred Stock, or to his, her or its nominees, a notice of issuance of uncertificated shares and, may, upon written request, issue and deliver a certificate or certificates for the number of full shares of



Common Stock issuable on such conversion in accordance with the provisions hereof. Such converted Series C Preferred Stock shall be retired and cancelled and may not be reissued as shares of such series, and the Corporation may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of its Preferred Stock accordingly.

(iii) Reservation of Shares Issuable Upon Conversion. The Corporation covenants that it will at all times reserve and keep available out of its authorized and unissued shares of Common Stock for the sole purpose of issuance upon conversion of the Series C Preferred Stock as herein provided, free from preemptive rights or any other actual contingent purchase rights of persons other than the holders of Series C Preferred Stock, not less than such aggregate number of shares of the Common Stock as shall be issuable (taking into account the adjustments and restrictions of Section 1.1(d)) upon the conversion of the then outstanding shares of Series C Preferred Stock. The Corporation covenants that all shares of Common Stock that shall be so issuable shall, upon issue, be duly authorized, validly issued, fully paid and nonassessable.

(iv) Fractional Shares. No fractional shares or scrip representing fractional shares shall be issued upon the conversion of the Series C Preferred Stock. As to any fraction of a share which the holder of shares of Series C Preferred Stock would otherwise be entitled to purchase upon such conversion, the Corporation shall round up to the next whole share.

(v) Transfer Taxes and Expenses. The issuance of shares of Common Stock on conversion of the Series C Preferred Stock shall be made without charge to any holder of Series C Preferred Stock for any documentary stamp or similar taxes that may be payable in respect of the issue or delivery of such shares of Common Stock, provided that the Corporation shall not be required to pay any tax that may be payable in respect of any transfer involved in the issuance and delivery of any such shares of Common Stock upon conversion in a name other than that of the holders of the Series C Preferred Stock of such shares of Series C Preferred Stock and the Corporation shall not be required to issue or deliver such shares of Common Stock unless or until the person or persons requesting the issuance thereof shall have paid to the Corporation the amount of such tax or shall have established to the satisfaction of the Corporation that such tax has been paid. The Corporation shall pay all transfer agent fees required for same-day processing and all fees to the Depository Trust Company (or another established clearing corporation performing similar functions) required for same-day electronic delivery of the shares of Common Stock.

(vi) Adjustments to Conversion Price for Diluting Issues.

(A) Special Definitions. For purposes of this Section 1.1(d), the following definitions shall apply:

(1) "Additional Shares of Common Stock" shall mean all shares of Common Stock issued (or, pursuant to Section 1.1(d)(vi)(C) below, deemed to be issued) by the Corporation after the Original Issue Date, other than (x) the following shares of Common Stock and (y) shares of Common Stock deemed issued pursuant to the following Options (as defined below) and Convertible Securities (as defined below) (clauses (x) and (y), collectively, "Exempted Securities"):



a. as to any series of Preferred Stock, shares of Common Stock, Options or Convertible Securities issued as a dividend or distribution on such series of Preferred Stock; or

b. shares of Common Stock, Options or Convertible Securities issued by reason of a dividend, stock split, split-up or other distribution on shares of Common Stock that is covered by Section 1.1(d)(vii); or

c. shares of Common Stock, Options or other equity-linked securities or awards issued to employees or directors of, or consultants or advisors to, the Corporation or any of its subsidiaries pursuant to a plan, agreement or arrangement approved by the Board of Directors of the Corporation; or

d. shares of Common Stock or Convertible Securities actually issued upon the exercise of Options or shares of Common Stock actually issued upon the conversion or exchange of Convertible Securities, in each case provided such issuance is pursuant to the terms of such Option or Convertible Security; or

e. shares of Common Stock, Options or Convertible Securities issued to banks, equipment lessors or other financial institutions, or to real property lessors, pursuant to a debt financing, equipment leasing or real property leasing transaction; or

f. shares of Common Stock, Options, Convertible Securities or other equity or equity-linked securities issued as acquisition consideration pursuant to the acquisition of another corporation by the Corporation by merger, purchase of substantially all of the assets or other reorganization or to a joint venture agreement; or

g. shares of Common Stock, Options, Convertible Securities or other equity or equity-linked issued in connection with a Significant Transaction Event; or

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

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

(B) No Adjustment of Conversion Price. No adjustment in the Conversion Price shall be made as the result of the issuance or deemed issuance of Additional Shares of Common Stock if the Corporation receives written notice from the Requisite Holders agreeing that no such adjustment shall be made as the result of the issuance or deemed issuance of such Additional Shares of Common Stock.

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

(1) If the Corporation at any time or from time to time after the Original Issue Date shall issue any Options or Convertible Securities (excluding Options or Convertible Securities which are themselves Exempted Securities) or shall fix a record date for the determination of holders of any class of securities entitled to receive any such Options or Convertible Securities, then the maximum number of shares of Common Stock (as set forth in the instrument relating thereto, assuming the satisfaction of any conditions to exercisability, convertibility or exchangeability but without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or, in the case of Convertible Securities and Options therefor, the conversion or exchange of such Convertible Securities, shall be deemed to be Additional Shares of Common Stock issued as of the time of such issue or, in case such a record date shall have been fixed, as of the close of business on such record date.

(2) If the terms of any Option or Convertible Security, the issuance of which resulted in an adjustment to the Conversion Price pursuant to the terms of Section 1.1(d)(vi)(D), are revised as a result of an amendment to such terms or any other adjustment pursuant to the provisions of such Option or Convertible Security (but excluding automatic adjustments to such terms pursuant to anti-dilution or similar provisions of such Option or Convertible Security) to provide for either (I) any increase or decrease in the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any such Option or Convertible Security or (II) any increase or decrease in the consideration payable to the Corporation upon such exercise, conversion and/or exchange, then, effective upon such increase or decrease becoming effective, the Conversion Price computed upon the original issue of such Option or Convertible Security (or upon the occurrence of a record date with respect thereto) shall be readjusted to such Conversion Price as would have obtained had such revised terms been in effect upon the original date of issuance of such Option or Convertible Security. Notwithstanding the foregoing, no readjustment pursuant to this clause (2) shall have the effect of increasing the Conversion Price to an amount which exceeds the lower of (x) the Conversion Price in effect immediately prior to the original adjustment made as a result of the issuance of such Option or Convertible Security, or (y) the Conversion Price that would have resulted from any issuances of Additional Shares of Common Stock (other than deemed issuances of Additional Shares of Common Stock as a result of the issuance of such Option or Convertible Security) between the original adjustment date and such readjustment date.

(3) If the terms of any Option or Convertible Security (excluding Options or Convertible Securities which are themselves Exempted Securities), the issuance of which did not result in an adjustment to the Conversion Price pursuant to the terms of Section 1.1(d)(vi)(D) (either because the consideration per share (determined pursuant to Section 1.1(d)(vi)(E) of the Additional Shares of Common Stock subject thereto was equal to or greater than the Conversion Price then in effect, or because such Option or Convertible Security was issued before the Original Issue Date), are revised after the Original Issue Date as a result of an amendment to such terms or any other adjustment pursuant to the provisions of such Option or Convertible Security (but excluding automatic adjustments to such terms pursuant to anti-dilution or similar provisions of such Option or Convertible Security) to provide for either (I) any increase in the number of shares of Common Stock issuable upon the exercise, conversion or exchange of any such Option or Convertible Security or (II) any decrease in the consideration payable to the Corporation upon such exercise, conversion or exchange, then such Option or Convertible



Security, as so amended or adjusted, and the Additional Shares of Common Stock subject thereto (determined in the manner provided in Section 1.1(d)(vi)(C)(1)) shall be deemed to have been issued effective upon such increase or decrease becoming effective.

(4) Upon the expiration or termination of any unexercised Option or unconverted or unexchanged Convertible Security (or portion thereof) which resulted (either upon its original issuance or upon a revision of its terms) in an adjustment to the Conversion Price pursuant to the terms of Section 1.1(d)(vi)(D), the Conversion Price shall be readjusted to such Conversion Price as would have obtained had such Option or Convertible Security (or portion thereof) never been issued.

(5) If the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any Option or Convertible Security, or the consideration payable to the Corporation upon such exercise, conversion and/or exchange, is calculable at the time such Option or Convertible Security is issued or amended but is subject to adjustment based upon subsequent events, any adjustment to the Conversion Price provided for in this Section 1.1(d)(vi)(C) shall be effected at the time of such issuance or amendment based on such number of shares or amount of consideration without regard to any provisions for subsequent adjustments (and any subsequent adjustments shall be treated as provided in clauses (2) and (3) of this Section 1.1(d)(vi)(C)). If the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any Option or Convertible Security, or the consideration payable to the Corporation upon such exercise, conversion and/or exchange, cannot be calculated at all at the time such Option or Convertible Security is issued or amended, any adjustment to the Conversion Price that would result under the terms of this Section 1.1(d)(vi)(C) at the time of such issuance or amendment shall instead be effected at the time such number of shares and/or amount of consideration is first calculable (even if subject to subsequent adjustments), assuming for purposes of calculating such adjustment to the Conversion Price that such issuance or amendment took place at the time such calculation can first be made.

(D) Adjustment of Conversion Price Upon Issuance of Additional Shares of Common Stock. In the event the Corporation shall at any time after the Original Issue Date issue Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Section 1.1(d)(vi)(C)), without consideration or for a consideration per share less than the Conversion Price in effect immediately prior to such issuance or deemed issuance, then the Conversion Price shall be reduced, concurrently with such issue, to a price (calculated to the nearest one-hundredth of a cent) determined in accordance with the following formula:

$$CP_2 = CP_1 * (A + B) \div (A + C).$$

For purposes of the foregoing formula, the following definitions shall apply:

(1) "CP₂" shall mean the Conversion Price in effect immediately after such issuance or deemed issuance of Additional Shares of Common Stock;

(2) "CP₁" shall mean the Conversion Price in effect immediately prior to such issuance or deemed issuance of Additional Shares of Common Stock;



(3) "A" shall mean the number of shares of Common Stock outstanding immediately prior to such issuance or deemed issuance of Additional Shares of Common Stock (treating for this purpose as outstanding all shares of Common Stock, other than Exempted Securities, issuable upon exercise of Options outstanding immediately prior to such issuance or deemed issuance or upon conversion or exchange of Convertible Securities (including the Preferred Stock) outstanding (assuming exercise of any outstanding Options therefor) immediately prior to such issue);

(4) "B" shall mean the number of shares of Common Stock, excluding Exempted Securities, that would have been issued if such Additional Shares of Common Stock had been issued or deemed issued at a price per share equal to CP₁ (determined by dividing the aggregate consideration received by the Corporation in respect of such issue by CP₁); and

(5) "C" shall mean the number of such Additional Shares of Common Stock issued in such transaction.

(E) Determination of Consideration. For purposes of this Section 1.1(d)(vi), the consideration received by the Corporation for the issuance or deemed issuance of any Additional Shares of Common Stock shall be computed as follows:

(1) Cash and Property. Such consideration shall:

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

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

c. in the event Additional Shares of Common Stock are issued together with other shares or securities, excluding Exempted Securities, or other assets of the Corporation for consideration which covers both, be the proportion of such consideration so received, computed as provided in clauses a. and b. above, as determined in good faith by the Board of Directors of the Corporation.

(2) Options and Convertible Securities. The consideration per share received by the Corporation for Additional Shares of Common Stock deemed to have been issued pursuant to Section 1.1(d)(vi)(C), relating to Options and Convertible Securities, shall be determined by dividing:

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



exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities, by

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

(F) Multiple Closing Dates. In the event the Corporation shall issue on more than one date Additional Shares of Common Stock that are a part of one transaction or a series of related transactions and that would result in an adjustment to the Conversion Price pursuant to the terms of Section 1.1(d)(vi)(D) then, upon the final such issuance, the Conversion Price shall be readjusted to give effect to all such issuances as if they occurred on the date of the first such issuance (and without giving effect to any additional adjustments as a result of any such subsequent issuances within such period).

(vii) Certain Other Adjustments.

(A) Stock Dividends and Stock Splits. If the Corporation, at any time while the Series C Preferred Stock is outstanding: (1) pays a stock dividend or otherwise makes a distribution or distributions payable in shares of Common Stock on shares of Common Stock or any other common stock equivalents (which, for avoidance of doubt, shall not include any PIK Dividends or shares of Common Stock issued by the Corporation upon conversion of, or payment of a dividend on, the Series C Preferred Stock), (2) subdivides outstanding shares of Common Stock into a larger number of shares, (3) combines (including by way of a reverse stock split) outstanding shares of Common Stock into a smaller number of shares, or (4) issues, in the event of a reclassification of shares of the Common Stock, any shares of capital stock of the Corporation, then the Conversion Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding any treasury shares of the Corporation) outstanding immediately before such event, and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event. Any adjustment made pursuant to this Section 1.1(d)(vii)(A) shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or reclassification.

(B) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 1.1(d)(vii)(A) above, if at any time the Corporation grants, issues or sells any common stock equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "**Purchase Rights**"), then the holder of shares of Series C Preferred Stock thereof will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the holder of shares of Series C Preferred Stock could have acquired if the holder of shares of Series C Preferred Stock had held the number of shares of Common Stock acquirable upon complete conversion of such holder's Series C Preferred Stock immediately before the date on which a record is taken for the



grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such purchase.

(C) Fundamental Transaction. If, at any time while the Series C Preferred Stock is outstanding, (1) the Corporation, directly or indirectly, in one or more related transactions effects any merger or consolidation of the Corporation with or into another person, other than a Significant Transaction Event, (2) the Corporation, directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of related transactions, other than a Significant Transaction Event, (3) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Corporation or another person) is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of 50% or more of the outstanding capital stock of the Corporation, other than a Significant Transaction Event, (4) the Corporation, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property, other than a Significant Transaction Event, or (5) the Corporation, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with another person whereby such other person acquires more than 50% of the outstanding shares of Common Stock (not including any shares of Common Stock held by the other person or other persons making or party to, or associated or affiliated with the other persons making or party to, such stock or share purchase agreement or other business combination), other than a Significant Transaction Event (each a "***Fundamental Transaction***"), then, upon any subsequent conversion of the Series C Preferred Stock, the holders of shares of Series C Preferred Stock shall have the right to receive, for each share of Common Stock that would have been issuable upon such conversion immediately prior to the occurrence of such Fundamental Transaction, the number of shares of Common Stock of the successor or acquiring corporation or of the Corporation, if it is the surviving corporation, and any additional consideration (the "***Alternate Consideration***") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which the Series C Preferred Stock is convertible immediately prior to such Fundamental Transaction. For purposes of any such conversion, the determination of the Conversion Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Corporation shall apportion the Conversion Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the holder of shares of Series C Preferred Stock shall be given the same choice as to the Alternate Consideration it receives upon any conversion of the Series C Preferred Stock following such Fundamental Transaction. To the extent necessary to effectuate the foregoing provisions, any successor to the Corporation or surviving entity in such Fundamental Transaction shall file an amended and restated Articles of Incorporation or Certificate of Designation with the same terms and conditions and issue to the holders of shares of Series C Preferred Stock new preferred stock consistent with the foregoing provisions and evidencing the holders' right to convert such preferred stock into Alternate

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Consideration. The Corporation shall cause any successor entity in a Fundamental Transaction in which the Corporation is not the survivor (the "*Successor Entity*") to assume in writing all of the obligations of the Corporation under this Certificate in accordance with the provisions of this Section 1.1(d)(vii)(C) pursuant to written agreements entered into prior to such Fundamental Transaction and shall deliver to the holder of shares of Series C Preferred Stock in exchange for the Series C Preferred Stock a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to the Series C Preferred Stock which is convertible for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon conversion of the Series C Preferred Stock prior to such Fundamental Transaction, and with a conversion price which applies the conversion price hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such conversion price being for the purpose of protecting the economic value of the Series C Preferred Stock immediately prior to the consummation of such Fundamental Transaction). Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Certificate referring to the "Corporation" shall refer instead to the Successor Entity), and may exercise every right and power of the Corporation and shall assume all of the obligations of the Corporation under this Certificate with the same effect as if such Successor Entity had been named as the Corporation herein.

(viii) Calculations. All calculations under this Section 1.1(d) shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 1.1(d), the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding any treasury shares of the Corporation) issued and outstanding.

(ix) Notice to the Holders. Whenever the Conversion Price is adjusted pursuant to any provision of this Section 1.1(d), the Corporation shall promptly deliver to each holder of shares of Series C Preferred Stock a notice setting forth the Conversion Price after such adjustment and setting forth a brief statement of the facts requiring such adjustment. If (A) the Corporation shall declare a dividend (or any other distribution in whatever form) on the Common Stock, (B) the Corporation shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock, (C) the Corporation shall authorize the granting to all holders of the Common Stock of rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any stockholders of the Corporation shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Corporation is a party, any sale or transfer of all or substantially all of the assets of the Corporation, or any compulsory share exchange whereby the Common Stock is converted into other securities, cash or property or (E) the Corporation shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation, then, in each case, the Corporation shall cause to be filed at each office or agency maintained for the purpose of conversion of the Series C Preferred Stock, and shall cause to be delivered to each holder of shares of Series C Preferred Stock at its last address as it shall appear upon the stock books of the Corporation, at least ten (10) calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (1) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is



not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (2) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange, provided that the failure to deliver such notice or any defect therein or in the delivery thereof shall not affect the validity of the corporate action required to be specified in such notice.

(c) Optional Conversion.

(i) Optional Conversion Rights. At any time or times on or after the Original Issue Date, each holder of Series C Preferred Stock shall be entitled to convert any portion of the outstanding Series C Preferred Stock held by such holder and any PIK Dividends (without the payment of additional consideration by the holder thereof) into such number of fully paid and non-assessable shares of Common Stock as determined for any such holder by dividing (A) the sum of (I) the aggregate Stated Value of all outstanding shares of Series C Preferred Stock being converted by such holder, (II) the aggregate Stated Value of all shares of Series C Preferred Stock due and owing to such holder as PIK Dividends which such holder is converting, and (III) the aggregate amount of cash dividends due and owing to such holder that such holder is converting by (B) the Conversion Price in effect on the Optional Conversion Date (as defined below), as adjusted in accordance with Section 1.1(d).

(ii) Fractional Shares. No fractional shares or scrip representing fractional shares shall be issued upon the conversion of the Series C Preferred Stock pursuant to this Section 1.1(e). As to any fraction of a share which the holder of shares of Series C Preferred Stock would otherwise be entitled to purchase upon such conversion, the Corporation shall round up to the next whole share.

(iii) Mechanics of Conversion.

(A) To convert a share of Series C Preferred Stock and/or PIK Dividends into shares of Common Stock pursuant to this Section 1.1(e) on any date (an "**Optional Conversion Date**"), the holder of such shares of Series C Preferred Stock and/or PIK Dividends shall deliver to the Corporation (whether via facsimile, electronic mail or otherwise), for receipt on or prior to 11:59 p.m., New York time, on such date, a copy of an executed notice of such conversion in the form attached hereto as Exhibit A (the "**Optional Conversion Notice**"). Within three (3) Trading Days (as defined below) of the Optional Conversion Date such holder that delivered the Optional Conversion Notice shall, if such holder's shares of Series C Preferred Stock are certificated, surrender his, her or its certificate or certificates for all such shares (or, if such holder of Series C Preferred Stock alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation and its transfer agent to indemnify the Corporation and/or its transfer agent against any claim that may be made against the Corporation and/or its transfer agent on account of the alleged loss, theft or destruction of such certificate) to the Corporation at the place designated in such notice. If so required by the Corporation or its transfer agent, any certificates surrendered for conversion shall be endorsed or accompanied by written instrument or instruments of transfer, in form satisfactory to the Corporation or its transfer



agent, duly executed by the registered holder of shares of Series C Preferred Stock or by his, her or its attorney duly authorized in writing. All rights with respect to the Series C Preferred Stock converted pursuant to this Section 1.1(e) will terminate at the Optional Conversion Date (notwithstanding the failure of the holder or holders of Series C Preferred Stock to surrender any certificates at or prior to such time), except only for the rights of the holders of Series C Preferred Stock, upon surrender, if applicable, of their certificate or certificates (or lost certificate affidavit and agreement), to receive the items provided for in the next sentence of this Section 1.1(e)(iii). As soon as practicable after the Optional Conversion Date and, if applicable, the surrender of the certificate or certificates (or lost certificate affidavit and agreement) for Series C Preferred Stock, the Corporation shall issue and deliver to such holder of Series C Preferred Stock, or to his, her or its nominees, a notice of issuance of uncertificated shares and, may, upon written request, issue and deliver a certificate or certificates for the number of full shares of Common Stock issuable on such conversion in accordance with the provisions hereof. Such converted Series C Preferred Stock shall be retired and cancelled and may not be reissued as shares of such series, and the Corporation may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of its Preferred Stock accordingly.

(B) On or before the third (3rd) Trading Day following the date of receipt of a Conversion Notice (or such earlier date as required pursuant to the 1934 Act or other applicable law, rule or regulation for the settlement of a trade initiated on the applicable Conversion Date of such shares of Common Stock issuable pursuant to such Optional Conversion Notice) (the "**Share Delivery Deadline**"), the Corporation shall (1) provided that its then current transfer agent is participating in The Depository Trust Company's ("DTC") Fast Automated Securities Transfer Program, credit such aggregate number of shares of Common Stock to which such converting holder shall be entitled to such holder's or its designee's balance account with DTC through its Deposit/Withdrawal at Custodian system, or (2) if the Transfer Agent is not participating in the DTC Fast Automated Securities Transfer Program, issue and deliver (via reputable overnight courier) to the address as specified in such Conversion Notice, a certificate, registered in the name of such holder or its designee, for the number of shares of Common Stock to which such holder shall be entitled. If the number of shares of Series C Preferred Stock represented by the Series C Preferred Stock Certificate(s) submitted for conversion pursuant to Section 1.1(e)(3)(A) is greater than the number of shares of Series C Preferred Stock being converted, then the Corporation shall, as soon as practicable and in no event later than three (3) Trading Days after receipt of the Series C Preferred Stock Certificate(s) and at its own expense, issue and deliver to such holder (or its designee) a new Series C Preferred Stock Certificate representing the number of shares of Series C Preferred Stock not so converted. The person or entity entitled to receive the shares of Common Stock issuable upon an optional conversion of Series C Preferred Stock shall be treated for all purposes as the record holder or holders of such shares of Common Stock on the Conversion Date.

(iv) "**Trading Day**" means any day on which the Common Stock is traded on the principal securities exchange securities market on which the Common Stock is then traded, provided that "Trading Day" shall not include any day on which the Common Stock is scheduled to trade on such exchange or market for less than 4.5 hours or any day that the Common Stock is suspended from trading during the final hour of trading on such exchange or market (or if such exchange or market does not designate in advance the closing time of trading on such exchange or market, then during the hour ending at 4:00:00 p.m., New York time) unless such day

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is otherwise designated as a Trading Day in writing by the holder converting the relevant shares of Series C Preferred Stock pursuant to this Section 1.1(e).

(v) Corporation's Failure to Timely Convert. If the Corporation shall fail, for any reason or for no reason, on or prior to the applicable Share Delivery Deadline, to issue to a holder a certificate for the number of shares of Common Stock to which such holder is entitled and register such shares of Common Stock on the Corporation's share register or to credit such holder's or its designee's balance account with DTC for such number of shares of Common Stock to which such holder is entitled upon such holder's conversion pursuant to this Section 1.1(e) (a "**Conversion Failure**"), and if on or after such Share Delivery Deadline such holder purchases (in an open market transaction or otherwise) shares of Common Stock to deliver in satisfaction of a sale by such holder of all or any portion of the number of shares of Common Stock, or a sale of a number of shares of Common Stock equal to all or any portion of the number of shares of Common Stock, issuable upon such conversion that such holder so anticipated receiving from the Company, then, in addition to all other remedies available to such holder, the Company shall, within three (3) Trading Days after receipt of such holder's request and in such holder's discretion, either: (I) pay cash to such holder in an amount equal to such holder's total purchase price (including brokerage commissions and other out-of-pocket expenses, if any) for the shares of Common Stock so purchased (including, without limitation, by any other individual or entity in respect, or on behalf, of such holder) (the "**Buy-In Price**"), at which point the Company's obligation to so issue and deliver such certificate or credit such holder's balance account with DTC for the number of shares of Common Stock to which such holder would have been entitled upon such holder's conversion hereunder (as the case may be) (and to issue such shares of Common Stock) shall terminate, or (II) promptly honor its obligation to so issue and deliver to such holder a certificate or certificates representing such shares of Common Stock or credit such holder's balance account with DTC for the number of shares of Common Stock to which such holder is entitled upon such holder's conversion hereunder (as the case may be) and pay cash to such holder in an amount equal to the excess (if any) of the Buy-In Price over the product of (x) such number of shares of Common Stock multiplied by (y) the lowest closing sale price of the Common Stock on any Trading Day during the period commencing on the date of the applicable Conversion Notice and ending on the date of such issuance and payment under this clause (II).

(f) Redemption.

(i) Mandatory Redemption. Unless prohibited by Nevada law governing distributions to stockholders of a corporation, the Series C Preferred Stock shall be redeemed (a "**Mandatory Redemption**") by the Corporation at a price equal to the Stated Value for such share of Series C Preferred Stock, plus an amount per share equal to the Stated Value of any shares of Series C Preferred Stock that are issuable as the result of accrued, but unpaid, PIK Dividends (the "**Redemption Price**"), if the Requisite Holders provide written notice of redemption to the Corporation on or after the eighteen (18) month anniversary of the Original Issue Date, which notice may only be so provided if on or after such date the Common Stock of the Corporation is not listed on a Trading Market (the date selected by the Corporation that is within thirty (30) days following the date that the Corporation receives such notice is referred to as the "**Redemption Date**"). If on the Redemption Date Nevada law governing distributions to stockholders of a corporation prevents the Corporation from redeeming all outstanding shares of Series C Preferred Stock to be redeemed, the Corporation shall ratably redeem the maximum number of shares of Series C Preferred Stock that

it may redeem consistent with such law, and shall redeem the remaining shares as soon as it may lawfully do so under such law. If the Corporation fails to pay the Redemption Price in full and redeem all outstanding shares of Series C Preferred Stock on the Redemption Date, then PIK Dividends shall accrue as specified in Section 1.1(c)(ii) hereof.

(ii) Redemption Notice. The Corporation shall send written notice of the Mandatory Redemption (the "**Redemption Notice**") to each holder of record of Series C Preferred Stock not less than ten (10) days prior to the Redemption Date. The Redemption Notice shall state:

(A) the number of shares of Series C Preferred Stock held by the holder that the Corporation shall redeem on the Redemption Date specified in the Redemption Notice;

(B) the Redemption Date and the Redemption Price; and

(C) for holders of shares in certificated form, that the holder is to surrender to the Corporation, in the manner and at the place designated, his, her or its certificate or certificates representing the shares of Series C Preferred Stock to be redeemed.

(iii) Surrender of Certificates; Payment. On or before the Redemption Date, each holder of shares of Series C Preferred Stock to be redeemed on the Redemption Date, shall, if a holder of shares in certificated form, surrender the certificate or certificates representing such shares (or, if such registered holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate) to the Corporation, in the manner and at the place designated in the Redemption Notice, and thereupon the Redemption Price for such shares shall be payable to the order of the person whose name appears on such certificate or certificates as the owner thereof.

(iv) Redeemed or Otherwise Acquired Shares. Any shares of Series C Preferred Stock that are redeemed or otherwise acquired by the Corporation or any of its subsidiaries shall be automatically and immediately cancelled and retired and shall not be reissued, sold or transferred.

(g) Waiver; Amendment. Any of the rights, powers, privileges and other terms of the Series C Preferred Stock set forth herein may be waived or amended on behalf of all holders of Series C Preferred Stock by the affirmative written consent or vote of the Requisite Holders.

(h) Notices. Except as otherwise provided herein, any notice required or permitted by the provisions of this Section 1.1 to be given to a holder of shares of Series C Preferred Stock shall be mailed, postage prepaid, to the post office address last shown on the records of the Corporation, or given by electronic communication in compliance with Section 78 of the Nevada Revised Statutes, and shall be deemed sent upon such mailing or electronic transmission.

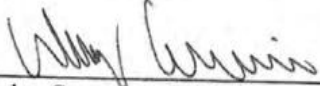


Section 1.2 Withholding. The Corporation agrees that, provided that a holder of the Corporation's capital stock delivers to the Corporation a properly executed IRS Form W-9 certifying as to such holder's complete exemption from backup withholding (or, if such holder is a disregarded entity for U.S. federal income tax purposes, its regarded owner's complete exemption from backup withholding), under current law the Corporation (including any paying agent of the Corporation) shall not be required to, and shall not, withhold on any payments or deemed payments to any such holder. In the event that any holder of the Corporation's capital stock fails to deliver to the Corporation such properly executed IRS Form W-9, the Corporation reasonably believes that a previously delivered IRS W-9 is no longer accurate and/or valid, or there is a change in law that affects the withholding obligations of the Corporation, the Corporation and its paying agent shall be entitled to withhold taxes on all payments made to the relevant holder in the form of cash or to request that the relevant holder promptly pay the Corporation in cash any amounts required to satisfy any withholding tax obligations. In the event that the Corporation does not have sufficient cash with respect to any such holder from withholding on cash payments otherwise payable to such holder and cash paid to the Corporation by such holder to the Corporation pursuant to the immediately preceding sentence, the Corporation and its paying agent shall be entitled to withhold taxes on deemed payments, including PIK Dividends and constructive distributions, on the Series C Preferred Stock to the extent required by law, and the Corporation and its paying agent shall be entitled to satisfy any required withholding tax on non-cash payments (including deemed payments) through a sale of a portion of the Series C Preferred Stock received as a PIK Dividend or from cash dividends or sales proceeds subsequently paid or credited on the Series C Preferred Stock.

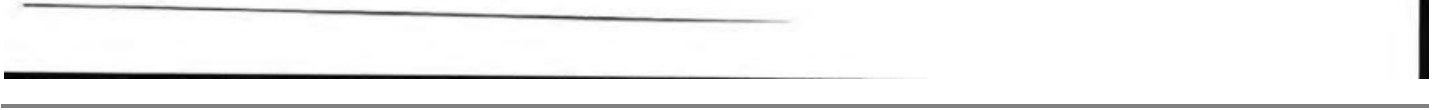
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IN WITNESS WHEREOF, the undersigned officer, for and on behalf of Applied Blockchain, Inc., has signed this Certificate of Designations this 15th day of April, 2021.



Wesley Cummins, CEO



CERTIFICATION

I, Wesley Cummins, certify that:

1. I have reviewed this Annual Report on Form 10-Q for the quarter ended February 28, 2022 of Applied Blockchain, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 13, 2022

By: /s/ Wesley Cummins

Wesley Cummins, Chief Executive Officer, Treasurer, Chairperson of
the Board and Director (Principal Executive Officer)

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CERTIFICATION

I, David Rench, certify that:

1. I have reviewed this Annual Report on Form 10-Q for the quarter ended February 28, 2022 of Applied Blockchain, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 13, 2022

By: /s/ David Rench

David Rench, Chief Financial Officer (Principal Financial and
Accounting Officer)

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**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report on Form 10-Q for the quarter ended February 28, 2022 of Applied Blockchain, Inc. (the "Company") as filed with the Securities and Exchange Commission on the date hereof (the "Report"), Wesley Cummins, Chief Executive Officer of the Company, certifies, to the best of his knowledge, pursuant to 18 U.S.C. §1350, as adopted pursuant to §906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: May 13, 2022

By: /s/ Wesley Cummins
Chief Executive Officer, Treasurer, Chairperson of the Board and
Director (Principal Executive Officer)

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report on Form 10-Q for the quarter ended February 28, 2022 of Applied Blockchain, Inc. (the "Company") as filed with the Securities and Exchange Commission on the date hereof (the "Report"), David Rench, Chief Financial Officer of the Company, certifies, to the best of his knowledge, pursuant to 18 U.S.C. §1350, as adopted pursuant to §906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: May 13, 2022

By: /s/ David Rench
Chief Financial Officer Chief Financial Officer (Principal Financial
and Accounting Officer)