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Date Received	Case Number	Certification Number
	13-2092-GA-AGG	

CERTIFICATION APPLICATION COMPETITIVE RETAIL NATURAL GAS BROKERS /AGGREGATORS

Please **type** or **print** all required information. Identify all attachments with an exhibit label and title (*Example: Exhibit A-16 - Company History*). All attachments should bear the legal name of the Applicant. Applicants should file completed applications and all related correspondence with the Public Utilities Commission of Ohio, Docketing Division, 180 East Broad Street, Columbus, Ohio 43215-3793.

This PDF form is designed so that you may directly input information onto the form. You may also download the form by saving it to your local disk.

SECTION A - APPLICANT INFORMATION AND SERVICES

A-1 Applicant intends to be certified as: (check all that apply)

☐ Retail Natural Gas Aggregator ☒ Retail Natural Gas Broker

A-2 Applicant information:

Legal Name Choose Energy, Inc.
Address 330 Townsend Street, Unit 102, San Francisco, CA 94107
Telephone No. 312.450.5253 Web site Address www.chooseenergy.com

A-3 Applicant information under which applicant will do business in Ohio:

Name Choose Energy, Inc. via a Registered Agent: Northwest Registered Agent Service, Inc.
Address 2012 West 25th Street, Unit 501 Cleveland, Ohio, 44113
Web site Address www.chooseenergy.com Telephone No. 469.361.2971

A-4 List all names under which the applicant does business in North America:

Choose Energy, Inc.

A-5 Contact person for regulatory or emergency matters:

Name John Tough Title Director of Business Development
Business Address 330 Townsend Street, Unit 102, San Francisco, CA 94107
Telephone No. 312.450.5253 Fax No. 469.574.7957 Email Address jtough@chooseenergy.com

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.

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A-6 Contact person for Commission Staff use in investigating customer complaints:

Name John Tough Title Director of Business Development
Business address 330 Townsend Street, Unit 102, San Francisco, CA 94107
Telephone No. 312.450.5253 Fax No. 469.574.7957 Email Address jtough@chooseenergy.com

A-7 Applicant's address and toll-free number for customer service and complaints

Customer service address 330 Townsend Street, Unit 102, San Francisco, CA 94107
Toll-Free Telephone No. 1.800.333.1411 Fax No. Email Address support@chooseenergy.com

A-8 Provide "Proof of an Ohio Office and Employee," in accordance with Section 4929.22 of the Ohio Revised Code, by listing name, Ohio office address, telephone number, and Web site address of the designated Ohio Employee

Not Applicable

Name Title
Business address
Telephone No. Fax No. Email Address

A-9 Applicant's federal employer identification number 90-0837667

A-10 Applicant's form of ownership: (Check one)

- | | |
|--|--|
| <input type="checkbox"/> Sole Proprietorship | <input type="checkbox"/> Partnership |
| <input type="checkbox"/> Limited Liability Partnership (LLP) | <input type="checkbox"/> Limited Liability Company (LLC) |
| <input checked="" type="checkbox"/> Corporation | <input type="checkbox"/> Other |

A-11 (Check all that apply) Identify each natural gas company service area in which the applicant is currently providing service or intends to provide service, including identification of each customer class that the applicant is currently serving or intends to serve, for example: *residential, small commercial, and/or large commercial/industrial (mercantile) customers*. (A mercantile customer, as defined in Section 4929.01(L)(1) of the Ohio Revised Code, means a customer that consumes, other than for residential use, more than 500,000 cubic feet of natural gas per year at a single location within the state or consumes natural gas, other than for residential use, as part of an undertaking having more than three locations within or outside of this state. In accordance with Section 4929.01(L)(2) of the Ohio Revised Code, "Mercantile customer" excludes a not-for-profit customer that consumes, other than for residential use, more than 500,000 cubic feet of natural gas per year at a single location within this state or consumes natural gas, other than for residential use, as part of an undertaking having more than three locations within or outside this state that has filed the necessary declaration with the Public Utilities Commission.)

<input checked="" type="checkbox"/> Columbia Gas of Ohio	<input checked="" type="checkbox"/> Residential	<input checked="" type="checkbox"/> Small Commercial	<input type="checkbox"/> Large Commercial / Industrial
<input checked="" type="checkbox"/> Dominion East Ohio	<input checked="" type="checkbox"/> Residential	<input checked="" type="checkbox"/> Small Commercial	<input type="checkbox"/> Large Commercial / Industrial
<input checked="" type="checkbox"/> Duke Energy Ohio	<input checked="" type="checkbox"/> Residential	<input checked="" type="checkbox"/> Small Commercial	<input type="checkbox"/> Large Commercial / Industrial
<input checked="" type="checkbox"/> Vectren Energy Delivery of Ohio	<input checked="" type="checkbox"/> Residential	<input checked="" type="checkbox"/> Small Commercial	<input type="checkbox"/> Large Commercial / Industrial

A-12 If applicant or an affiliated interest previously participated in any of Ohio's Natural Gas Choice Programs, for each service area and customer class, provide approximate start date(s) and/or end date(s) that the applicant began delivering and/or ended services.

☐ Columbia Gas of Ohio

<input type="checkbox"/> Residential	Beginning Date of Service	End Date
<input type="checkbox"/> Small Commercial	Beginning Date of Service	End Date
<input type="checkbox"/> Large Commercial	Beginning Date of Service	End Date
<input type="checkbox"/> Industrial	Beginning Date of Service	End Date

☐ Dominion East Ohio

<input type="checkbox"/> Residential	Beginning Date of Service	End Date
<input type="checkbox"/> Small Commercial	Beginning Date of Service	End Date
<input type="checkbox"/> Large Commercial	Beginning Date of Service	End Date
<input type="checkbox"/> Industrial	Beginning Date of Service	End Date

☐ Duke Energy Ohio

<input type="checkbox"/> Residential	Beginning Date of Service	End Date
<input type="checkbox"/> Small Commercial	Beginning Date of Service	End Date
<input type="checkbox"/> Large Commercial	Beginning Date of Service	End Date
<input type="checkbox"/> Industrial	Beginning Date of Service	End Date

☐ Vectren Energy Delivery of Ohio

<input type="checkbox"/> Residential	Beginning Date of Service	End Date
<input type="checkbox"/> Small Commercial	Beginning Date of Service	End Date
<input type="checkbox"/> Large Commercial	Beginning Date of Service	End Date
<input type="checkbox"/> Industrial	Beginning Date of Service	End Date

A-13 If not currently participating in any of Ohio's four Natural Gas Choice Programs, provide the approximate start date that the applicant proposes to begin delivering services:

<input checked="" type="checkbox"/>	Columbia Gas of Ohio	Intended Start Date	November 1, 2013
<input checked="" type="checkbox"/>	Dominion East Ohio	Intended Start Date	November 1, 2013
<input checked="" type="checkbox"/>	Duke Energy Ohio	Intended Start Date	November 1, 2013
<input checked="" type="checkbox"/>	Vectren Energy Delivery of Ohio	Intended Start Date	November 1, 2013

PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED.

- A-14 Exhibit A-14 "Principal Officers, Directors & Partners,"** provide the names, titles, addresses and telephone numbers of the applicant's principal officers, directors, partners, or other similar officials.
- A-15 Exhibit A-15 "Corporate Structure,"** provide a description of the applicant's corporate structure, including a graphical depiction of such structure, and a list of all affiliate and subsidiary companies that supply retail or wholesale natural gas or electricity to customers in North America.
- A-16 Exhibit A-16 "Company History,"** provide a concise description of the applicant's company history and principal business interests.
- A-17 Exhibit A-17 "Articles of Incorporation and Bylaws,"** if applicable, provide the articles of incorporation filed with the state or jurisdiction in which the applicant is incorporated and any amendments thereto.
- A-18 Exhibit A-18 "Secretary of State,"** provide evidence that the applicant is currently registered with the Ohio Secretary of the State.

SECTION B - APPLICANT MANAGERIAL CAPABILITY AND EXPERIENCE

PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED

- B-1 Exhibit B-1 "Jurisdictions of Operation,"** provide a current list of all jurisdictions in which the applicant or any affiliated interest of the applicant is, at the date of filing the application, certified, licensed, registered, or otherwise authorized to provide retail natural gas service, or retail/wholesale electric services.
- B-2 Exhibit B-2 "Experience & Plans,"** provide a current description of the applicant's experience and plan for contracting with customers, providing contracted services, providing billing statements, and responding to customer inquiries and complaints in accordance with Commission rules adopted pursuant to Section 4929.22 of the Revised Code and contained in Chapter 4901:1-29 of the Ohio Administrative Code.
- B-3 Exhibit B-3 "Summary of Experience,"** provide a concise and current summary of the applicant's experience in providing the service(s) for which it is seeking to be certified to provide (e.g., number and types of customers served, utility service areas, volume of gas supplied, etc.).
- B-4 Exhibit B-4 "Disclosure of Liabilities and Investigations,"** provide a description of all existing, pending or past rulings, judgments, contingent liabilities, revocations of authority, regulatory investigations, or any other matter that could adversely impact the applicant's financial or operational

status or ability to provide the services it is seeking to be certified to provide.

- B-5 Exhibit B-5 "Disclosure of Consumer Protection Violations,"** disclose whether the applicant, affiliate, predecessor of the applicant, or any principal officer of the applicant has been convicted or held liable for fraud or for violation of any consumer protection or antitrust laws within the past five years.

☒ No ☐ Yes

If Yes, provide a separate attachment labeled as Exhibit B-5 "Disclosure of Consumer Protection Violations," detailing such violation(s) and providing all relevant documents.

- B-6 Exhibit B-6 "Disclosure of Certification Denial, Curtailment, Suspension, or Revocation,"** disclose whether the applicant or a predecessor of the applicant has had any certification, license, or application to provide retail natural gas or retail/wholesale electric service denied, curtailed, suspended, or revoked, or whether the applicant or predecessor has been terminated from any of Ohio's Natural Gas Choice programs, or been in default for failure to deliver natural gas.

☒ No ☐ Yes

If Yes, provide a separate attachment, labeled as Exhibit B-6 "Disclosure of Certification Denial, Curtailment, Suspension, or Revocation," detailing such action(s) and providing all relevant documents.

SECTION C - APPLICANT FINANCIAL CAPABILITY AND EXPERIENCE

PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED

- C-1 Exhibit C-1 "Annual Reports,"** provide the two most recent Annual Reports to Shareholders. If applicant does not have annual reports, the applicant should provide similar information, labeled as Exhibit C-1, or indicate that Exhibit C-1 is not applicable and why.
- C-2 Exhibit C-2 "SEC Filings,"** provide the most recent 10-K/8-K Filings with the SEC. If applicant does not have such filings, it may submit those of its parent company. If the applicant does not have such filings, then the applicant may indicate in Exhibit C-2 whether the applicant is not required to file with the SEC and why.
- C-3 Exhibit C-3 "Financial Statements,"** provide copies of the applicant's two most recent years of audited financial statements (balance sheet, income statement, and cash flow statement). If audited financial statements are not available, provide officer-certified financial statements. If the applicant has not been in business long enough to satisfy this requirement, it shall file audited or officer-certified financial statements covering the life of the business.
- C-4 Exhibit C-4 "Financial Arrangements,"** provide copies of the applicant's current financial arrangements to conduct competitive retail natural gas service (CRNGS) as a business activity (e.g., guarantees, bank commitments, contractual arrangements, credit agreements, etc.)
- C-5 Exhibit C-5 "Forecasted Financial Statements,"** provide two years of forecasted financial statements (balance sheet, income statement, and cash flow statement) for the applicant's CRNGS operation, along with a list of assumptions, and the name, address, email address, and telephone number of the preparer.

- C-6 **Exhibit C-6 "Credit Rating,"** provide a statement disclosing the applicant's current credit rating as reported by two of the following organizations: Duff & Phelps, Dun and Bradstreet Information Services, Fitch IBCA, Moody's Investors Service, Standard & Poors, or a similar organization. In instances where an applicant does not have its own credit ratings, it may substitute the credit ratings of a parent or affiliate organization, provided the applicant submits a statement signed by a principal officer of the applicant's parent or affiliate organization that guarantees the obligations of the applicant.
- C-7 **Exhibit C-7 "Credit Report,"** provide a copy of the applicant's current credit report from Experion, Dun and Bradstreet, or a similar organization.
- C-8 **Exhibit C-8 "Bankruptcy Information,"** provide a list and description of any reorganizations, protection from creditors, or any other form of bankruptcy filings made by the applicant, a parent or affiliate organization that guarantees the obligations of the applicant or any officer of the applicant in the current year or since applicant last filed for certification.
- C-9 **Exhibit C-9 "Merger Information,"** provide a statement describing any dissolution or merger or acquisition of the applicant since applicant last filed for certification.

SECTION D – APPLICANT TECHNICAL CAPABILITY

PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED.

- D-1 **Exhibit D-1 "Operations,"** provide a current written description of the operational nature of the applicant's business functions.
- D-2 **Exhibit D-2 "Operations Expertise,"** given the operational nature of the applicant's business, provide evidence of the applicant's current experience and technical expertise in performing such operations.
- D-3 **Exhibit D-3 "Key Technical Personnel,"** provide the names, titles, email addresses, telephone numbers, and background of key personnel involved in the operational aspects of the applicant's current business.

Applicant Signature and Title

Jeyllat, President

Sworn and subscribed before me this

7th

day of

October

Month

2013

Year

DAVEE CHUM

Signature of official administering oath

DAVEE CHUM, NOTARY PUBLIC

Print Name and Title



My commission expires on

SEPTEMBER 7, 2017



The Public Utilities Commission of Ohio

Competitive Retail Natural Gas Service
Affidavit Form
(Version 1.07)

In the Matter of the Application of

Choose Energy, Inc.

for a Certificate or Renewal Certificate to Provide
Competitive Retail Natural Gas Service in Ohio.

Case No. - -GA-AGG

County of
State of

Jay Webster

[Affiant], being duly sworn/affirmed, hereby states that:

- (1) The information provided within the certification or certification renewal application and supporting information is complete, true, and accurate to the best knowledge of affiant.
- (2) The applicant will timely file an annual report of its intrastate gross receipts and sales of hundred cubic feet of natural gas pursuant to Sections 4905.10(A), 4911.18(A), and 4929.23(B), Ohio Revised Code.
- (3) The applicant will timely pay any assessment made pursuant to Section 4905.10 or Section 4911.18(A), Ohio Revised Code.
- (4) Applicant will comply with all applicable rules and orders adopted by the Public Utilities Commission of Ohio pursuant to Title 49, Ohio Revised Code.
- (5) Applicant will cooperate with the Public Utilities Commission of Ohio and its staff in the investigation of any consumer complaint regarding any service offered or provided by the applicant.
- (6) Applicant will comply with Section 4929.21, Ohio Revised Code, regarding consent to the jurisdiction of the Ohio courts and the service of process.
- (7) Applicant will inform the Public Utilities Commission of Ohio of any material change to the information supplied in the certification or certification renewal application within 30 days of such material change, including any change in contact person for regulatory or emergency purposes or contact person for Staff use in investigating customer complaints.
- (8) Affiant further sayeth naught.

Affiant Signature & Title

Sworn and subscribed before me this

7th day of October

Month

2013

Year

DAVEE CHUM

Signature of Official Administering Oath

DAVEE CHUM, NOTARY PUBLIC

Print Name and Title



My commission expires on SEPTEMBER 7, 2017



Exhibits for Natural Gas Broker Application

Exhibit A-14 – Principal Officers, Directors & Partners

Individual # 1

Jerry Dyess, Chief Executive Officer

Bio: Jerry Dyess has over 15 years experience developing and leading strategies in the information technology and energy procurement industries. As CEO, Jerry oversees the company's business development and marketing campaigns, manages provider relations, and is responsible for driving the company's strategic growth.

Jerry's entrepreneurial career began in 2002 when he cofounded EnergyTX.com in Dallas, Texas at the start of electricity deregulation in Texas. With EnergyTX, Jerry developed partnerships and managed the company's sales and marketing before selling the book of business to Priority Power Management in 2005. Prior to EnergyTX, Jerry held a series of senior business development and management positions in the information technology, Internet and deregulated telecom industries.

Jerry Dyess has been leading ChooseEnergy.com in Texas since 2005, generating tens of thousands of residential and commercial leads for Retail Electricity Providers in the Texas area, cumulatively saving Texas consumers millions of dollars in energy bills.

Email: jdyess@chooseenergy.com – Number: 469-361-2971

Address: 6217 Chapel Hill Road, Unit 300, Plano, TX 75093

Individual # 2

Jay Webster, President

Jay has over 20 years of experience working in almost every aspect of technology startups. Jay has previously served as Chief Product Officer for Sharethrough & Quova, GM of Lead Generation for Yahoo!, GM of Performance Marketing and CTO for BlueLithium. Jay has a degree in Biology from University of California, Santa Cruz.

Choose Energy, Inc. – Ohio (Natural Gas Broker)
Filled out by: Jay Webster, 415-829-3660, jwebster@chooseenergy.com

Email: jwebster@chooseenergy.com - Number: 415-829-3660
Address: 330 Townsend St., Unit 102, San Francisco, CA 94107

Individual # 3

John Tough, Director of Business Development

Prior to joining Choose Energy, John worked with Kleiner Perkins Caufield & Byers where he focused on platform investments that united the energy and technology industries. John has also spent time at XMS Capital Partners and UBS Investment Bank where he specialized in growth and M&A capital advisory services. John received his B.S. from Duke University in biology and chemistry, and completed his MBA from the University of Chicago Booth School of Business, where he was a recipient of the Class Leadership Award.

Email: jtough@chooseenergy.com - Number: 312-450-5253
Address: 330 Townsend St., Unit 102, San Francisco, CA 94107

Individual # 4

David Mount, Board Member and Partner at Kleiner Perkins Caufield & Byers

David Mount joined Kleiner Perkins Caufield & Byers as a partner in 2008. He is a member of the greentech team at KPCB and focuses on investments in the Green Growth Fund. Within greentech, David focuses on investments in the smart grid, lighting, wind, storage, industrial efficiency and energy enterprise software sectors. He has worked closely with the teams at Hara Software, Luca Technologies, OPOWER, OSIsoft, Silver Spring Networks and UpWind Solutions.

David has been investing in energy and technology since 2003. Before joining KPCB, he worked on the petrochemical and oil and gas portfolios at Sankaty Advisors, a unit of Bain Capital. He also worked at AES, evaluating geothermal projects in Southeast Asia, and at MissionPoint Capital, pursuing growth equity opportunities in green energy markets.

David received a B.A. degree from Yale University and an M.S. degree in environment and resources from Stanford University. He completed his M.B.A. at the Stanford Graduate School of Business, where he was an Arjay Miller Scholar. He remains involved in course development at the Stanford Graduate School of Business and School of Earth Sciences.

Individual # 5

Justin Courtney, Board Member and Senior Vice President at Stephens

Justin is a Senior Vice President at Stephens Inc., one of the largest independent investment banks in the U.S. At Stephens, Justin leads the firm's retail energy sector coverage. Mr. Courtney has completed over 50 M&A, IPO and financing transactions for public and private companies. Mr. Courtney received his BBA with honors from Oklahoma State University where he was distinguished as a Top Ten Graduate and Outstanding Young Alumni. Mr. Courtney is also certified by the Association of Energy Engineers as a Certified Energy Procurement Professional.

Exhibit A-15 – Corporate Structure

Choose Energy, Inc. is a standalone entity with no other affiliates or holding company structures. All employees, revenues and obligations are directly tied to the Choose Energy, Inc.

Exhibit A-16 – Company History

Company History

Choose Energy, Inc. is a privately funded company with a vision to offer an unbiased shopping experience for electricity and natural gas. The company has expanded its services from Texas to the entire deregulated energy network, including Ohio.

Historically the firm has focused on the Texas market given the state's early competitive supply adoption. In these markets, Jerry Dyess and the rest of his Choose Energy team have built a robust technology platform that utilizes industry API to offer the best, real-time criterion selection for the consumer. Over the past few years the Choose team has perfected these technologies and built a steady network with various utilities and REPs, gaining trust and growing relationships in the northeast and Midwest.



Mission

By helping more people switch to lower cost and more competitive power and gas, we will help lower energy prices through competition and help our customers lower their energy bill. This process also helps consumers save time. Many people simply don't know they have the power to choose when it comes to their electric or natural gas company. We aim to change all of that and help create awareness and competition by allowing consumers of electricity and natural gas

to select lower prices, better customer care, and more flexible payment and billing options from an easy to understand comparison chart. Our aim is to empower consumers across the nation's deregulated energy markets.

Exhibit A-17 – Articles of Incorporation and Bylaws

Articles of Incorporation & Bylaws

<div style="text-align: center;"><i>Delaware</i> <hr/><i>The First State</i></div>		PAGE 1
<p>I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE RESTATED CERTIFICATE OF "CHOOSE ENERGY, INC.", FILED IN THIS OFFICE ON THE FOURTH DAY OF MAY, A.D. 2012, AT 10:59 O'CLOCK A.M.</p> <p>A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE KENT COUNTY RECORDER OF DEEDS.</p>		
5148128 8100 120510509 <small>You may verify this certificate online at corp.delaware.gov/authver.shtml</small>		 Jeffrey W. Bullock, Secretary of State AUTHENTICATION: 9549816 DATE: 05-04-12

State of Delaware
Secretary of State
Division of Corporations
Delivered 10:59 AM 05/04/2012
FILED 10:59 AM 05/04/2012
SNV 120510309 - 5148128 FILE

AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION

OF

CHOOSE ENERGY, INC.

The undersigned, Jerry Dyess, hereby certifies that:

1. The undersigned is the duly elected and acting Chief Executive Officer of Choose Energy, Inc., a Delaware corporation.
2. The Certificate of Incorporation of this corporation was originally filed with the Secretary of State of Delaware on May 1, 2012.
3. The Certificate of Incorporation of this corporation shall be amended and restated to read in full as follows:

ARTICLE I

The name of this corporation is Choose Energy, Inc. (the "Corporation").

ARTICLE II

The address of the Corporation's registered office in the State of Delaware is 160 Greentree Drive, Suite 101, in the City of Dover, County of Kent, 19904. The name of its registered agent at such address is National Registered Agents, Inc.

ARTICLE III

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

ARTICLE IV

(A) Classes of Stock. The Corporation is authorized to issue two classes of stock to be designated, respectively, "Common Stock" and "Preferred Stock." The total number of shares which the Corporation is authorized to issue is 12,400,000 shares, each with a par value of \$0.00001 per share. 8,400,000 shares shall be Common Stock and 4,000,000 shares shall be Preferred Stock.

(B) Rights, Preferences and Restrictions of Preferred Stock. The Preferred Stock authorized by this Amended and Restated Certificate of Incorporation (the "Restated Certificate") may be issued from time to time in one or more series. 4,000,000 shares of Preferred Stock shall be designated "Series A Preferred Stock." The rights, preferences, privileges and restrictions granted to and imposed on the Series A Preferred Stock are as set forth below in this Article IV(L).

US/USA, 7506-10021 0

1. **Dividend Provisions.** The holders of shares of Series A Preferred Stock shall be entitled to receive dividends, out of any assets legally available therefor, prior and in preference to any declaration or payment of any dividend (payable other than in Common Stock or other securities and rights convertible into or entitling the holder thereof to receive, directly or indirectly, additional shares of Common Stock of the Corporation) on the Common Stock of the Corporation, at the rate of \$0.08 per share (as adjusted for stock splits, stock dividends, reclassification and the like) per annum on each outstanding share of Series A Preferred Stock then held by them; payable when, as and if declared by the Board of Directors of the Corporation (the "Board of Directors"). Such dividends shall not be cumulative. After payment of such dividends, any additional dividends shall be distributed among the holders of Series A Preferred Stock and Common Stock pro rata based on the number of shares of Common Stock then held by each holder (assuming conversion of all such Preferred Stock into Common Stock).

2. **Liquidation.**

(a) **Preference.** In the event of any liquidation, dissolution or winding up of the Corporation, either voluntary or involuntary, the holders of Series A Preferred Stock shall be entitled to receive, prior and in preference to any distribution of any of the assets of the Corporation to the holders of Common Stock, by reason of their ownership thereof, an amount per share equal to \$1.00 per share (as adjusted for stock splits, stock dividends, reclassification and the like) for each outstanding share of Series A Preferred Stock then held by them; plus any declared or accrued but unpaid dividends. If, upon the occurrence of such event, the assets and funds thus distributed among the holders of Series A Preferred Stock shall be insufficient to permit the payment to such holders of the full aforesaid preferential amounts, then the entire assets and funds of the Corporation legally available for distribution shall be distributed ratably among the holders of Series A Preferred Stock in proportion to the preferential amount each such holder is otherwise entitled to receive.

(b) **Remaining Assets.** Upon the completion of the distribution required by Section 2(a) above, if assets remain in the Corporation, the holders of the Common Stock of the Corporation shall receive all of the remaining assets of the Corporation.

(c) **Deemed Conversion.** Notwithstanding the above, for purposes of determining the amount each holder of shares of Preferred Stock is entitled to receive with respect to a Liquidation Transaction, as defined below, each such holder of shares of a series of Preferred Stock shall be deemed to have converted (regardless of whether such holder actually converted) such holder's shares of such series into shares of Common Stock immediately prior to the Liquidation Transaction if, as a result of an actual conversion, such holder would receive, in the aggregate, an amount greater than the amount that would be distributed to such holder if such holder did not convert such series of Preferred Stock into shares of Common Stock. If any such holder shall be deemed to have converted shares of Preferred Stock into Common Stock pursuant to this paragraph, then such holder shall not be entitled to receive any distribution that would otherwise be made to holders of Preferred Stock that have not converted (or have not been deemed to have converted) into shares of Common Stock.

(d) Certain Acquisitions.

(i) Deemed Liquidation. For purposes of this Section 2, a liquidation, dissolution or winding up of the Corporation shall be deemed to occur if the Corporation shall sell, convey or otherwise dispose of all or substantially all of its property or business or merge with or into or consolidate with any other corporation, limited liability company or other entity (other than a wholly-owned subsidiary of the Corporation) (any such transaction, a "Liquidation Transaction"), provided that none of the following shall be considered a Liquidation Transaction: (A) a merger effected exclusively for the purpose of changing the domicile of the Corporation, (B) an equity financing in which the Corporation is the surviving corporation or (C) a transaction in which the stockholders of the Corporation immediately prior to the transaction own 50% or more of the voting power of the surviving corporation following the transaction. In the event of a merger or consolidation of the Corporation that is deemed pursuant to this section to be a Liquidation Transaction, all references in this Section 2 to "assets of the Corporation" shall be deemed instead to refer to the aggregate consideration to be paid to the holders of the Corporation's capital stock in such merger or consolidation. Nothing in this subsection 2(d)(i) shall require the distribution to stockholders of anything other than proceeds of such transaction in the event of a merger or consolidation of the Corporation. The holders of at least a majority of the Corporation's outstanding Preferred Stock, voting together as a separate class on an as converted basis, shall be entitled to waive the treatment of a Liquidation Transaction under this section.

(ii) Valuation of Consideration. In the event of a deemed liquidation as described in Section 2(d)(i) above, if the consideration received by the Corporation is other than cash, its value will be deemed its fair market value. Any securities shall be valued as follows:

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

(1) If traded on a securities exchange, the value shall be based on a formula approved by the Board of Directors and derived from the closing prices of the securities on such exchange over a specified time period,

(2) If actively traded over-the-counter, the value shall be based on a formula approved by the Board of Directors and derived from the closing bid or sales prices (whichever is applicable) of such securities over a specified time period, and

(3) If there is no active public market, the value shall be the fair market value thereof, as determined in good faith by the Board of Directors.

(B) The method of valuation of securities subject to investment letter or other restrictions on free marketability (other than restrictions arising solely by virtue of a stockholder's status as an affiliate or former affiliate) shall be to make an appropriate discount from the market value determined as specified above in Section 2(d)(ii)(A) to reflect the approximate fair market value thereof, as determined in good faith by the Board of Directors.

(e) Notice of Liquidation Transaction. The Corporation shall give each holder of record of Series A Preferred Stock written notice of any impending Liquidation Transaction not later than 10 days prior to the stockholders' meeting called to approve such Liquidation Transaction, or 10 days prior to the closing of such Liquidation Transaction, whichever is earlier, and shall also notify such holders in writing of the final approval of such Liquidation Transaction. The first of such notices shall describe the material terms and conditions of the impending Liquidation Transaction and the provisions of this Section 2, and the Corporation shall thereafter give such holders prompt notice of any material changes. Unless such notice requirements are waived, the Liquidation Transaction shall not take place sooner than 10 days after the Corporation has given the first notice provided for herein or sooner than 10 days after the Corporation has given notice of any material changes provided for herein. Notwithstanding the other provisions of this Restated Certificate, all notice periods or requirements in this Restated Certificate may be shortened or waived, either before or after the action for which notice is required, upon the vote or written consent of the holders of a majority of the voting power of the outstanding shares of Preferred Stock that are entitled to such notice rights.

(f) Effect of Noncompliance. In the event the requirements of Section 2(e) are not complied with, the Corporation shall forthwith either cause the closing of the Liquidation Transaction to be postponed until the requirements of this Section 2 have been complied with, or cancel such Liquidation Transaction, in which event the rights, preferences, privileges and restrictions of the holders of Series A Preferred Stock shall revert to and be the same as such rights, preferences, privileges and restrictions existing immediately prior to the date of the first notice referred to in Section 2(e).

3. Redemption. The Preferred Stock is not mandatorily redeemable.

4. Conversion. The holders of shares of Preferred Stock shall be entitled to conversion rights as follows:

(a) Right to Convert. Subject to Section 4(c), each share of Preferred Stock shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share, at the office of the Corporation or any transfer agent for such stock, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing \$1.00 in the case of the Series A Preferred Stock, by the Conversion Price applicable to such shares (the conversion rate for Preferred Stock into Common Stock is referred to herein as the "Conversion Rate"), determined as hereafter provided, in effect on the date the certificate is surrendered for conversion. The initial Conversion Price per share shall be \$1.00 in the case of the Series A Preferred Stock. Such initial Conversion Price shall be subject to adjustment as set forth in Section 4(d) below.

(b) Automatic Conversion. Each share of Preferred Stock shall automatically be converted into shares of Common Stock at the Conversion Rate then in effect for such share immediately upon the earlier of (i) except as provided below in Section 4(c), the Corporation's sale of its Common Stock in a firm commitment underwritten public offering pursuant to a registration statement under the Securities Act of 1933, as amended (the "Securities Act"), which results in aggregate cash proceeds to the Corporation of not less than \$50,000,000,

net of underwriting discounts and commissions, at a pre-issuance valuation of at least \$250,000,000 or (ii) the date specified by vote or written consent of the holders of a majority of the then outstanding shares of Preferred Stock, voting together as a single class on an as-converted to Common Stock basis.

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

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

(i) **Issuance of Additional Stock Below Purchase Price.** If the Corporation should issue, at any time after the date upon which any shares of Series A Preferred Stock were first issued (the "Purchase Date"), any Additional Stock (as defined below) without consideration or for a consideration per share less than the Conversion Price for the Series A Preferred Stock in effect immediately prior to the issuance of such Additional Stock (as adjusted for stock splits, stock dividends, reclassification and the like), the Conversion Price for such series in effect immediately prior to each such issuance shall automatically be adjusted as set forth in this Section 4(d)(i), unless otherwise provided in this Section 4(d)(i).

(A) **Adjustment Formula.** Whenever the Conversion Price is adjusted pursuant to this Section 4(d)(i), the new Conversion Price shall be determined by multiplying the Conversion Price then in effect by a fraction, (x) the numerator of which shall be the number of shares of Common Stock outstanding immediately prior to such issuance (the "Outstanding Common") plus the number of shares of Common Stock that the aggregate consideration received by the Corporation for such issuance would purchase at such Conversion Price; and (y) the denominator of which shall be the number of shares of Outstanding Common plus the number of shares of such Additional Stock. For purposes of the foregoing calculation,

the term "Outstanding Common" shall include shares of Common Stock deemed issued pursuant to Section 4(d)(i)(E) below.

(B) **Definition of "Additional Stock".** For purposes of this Section 4(d)(i), "Additional Stock" shall mean any shares of Common Stock issued (or deemed to have been issued pursuant to Section 4(d)(i)(E)) by the Corporation after the Purchase Date, other than:

(1) Up to 2,000,000 shares of Common Stock (or options therefor) (or such greater number of shares approved by the Board of Directors (including a Series A Preferred Director (as defined below)) issued to employees, consultants, or directors of the Corporation pursuant to the Company's 2012 Stock Plan or pursuant to stock option plans or restricted stock plans or agreements approved by the Board of Directors (including a Series A Preferred Director);

(2) securities issued in connection with the acquisition by the Corporation of other entities or assets, in each case approved by the Board of Directors (including a Series A Preferred Director);

(3) securities issued to banks, equipment lessors or other financial institutions in connection with debt financing transactions, commercial credit arrangements or equipment leasing transactions, in each case approved by the Board of Directors (including a Series A Preferred Director);

(4) securities issued in connection with (A) sponsored research, collaboration, technology licensing or development activities, (B) original equipment manufacturing or marketing of the Corporation's products or services or (C) other similar agreements or strategic partnerships, in each case as approved by the Board of Directors (including a Series A Preferred Director); and

(5) Common Stock issued in an initial public offering.

(C) **No Fractional Adjustments.** No adjustment of the Conversion Price for the Preferred Stock shall be made in an amount less than one cent per share, provided that any adjustments which are not required to be made by reason of this sentence shall be carried forward and shall be either taken into account in any subsequent adjustment made prior to three years from the date of the event giving rise to the adjustment being carried forward, or shall be made at the end of three years from the date of the event giving rise to the adjustment being carried forward.

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

deemed to be the fair value thereof as determined by the Board of Directors irrespective of any accounting treatment.

(E) **Deemed Issuance of Common Stock.** In the case of the issuance of securities or rights convertible into, or entitling the holder thereof to receive directly or indirectly, additional shares of Common Stock (the "**Common Stock Equivalents**"), the following provisions shall apply for all purposes of this Section 4(d)(i):

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

(2) In the event of any change in the number of shares of Common Stock deliverable or in the consideration payable to the Corporation upon conversion, exchange or exercise of any Common Stock Equivalents, other than a change resulting from the antidilution provisions thereof, the Conversion Price of any series of Preferred Stock, to the extent in any way affected by or computed using such Common Stock Equivalents, shall be recomputed to reflect such change, but no further adjustment shall be made for the actual issuance of Common Stock or any payment of such consideration upon the conversion, exchange or exercise of such Common Stock Equivalents.

(3) Upon the termination or expiration of the convertibility, exchangeability or exercisability of any Common Stock Equivalents, the Conversion Price of any series of Preferred Stock, to the extent in any way affected by or computed using such Common Stock Equivalents, shall be recomputed to reflect the issuance of only the number of shares of Common Stock (and Common Stock Equivalents that remain convertible, exchangeable or exercisable) actually issued upon the conversion, exchange or exercise of such Common Stock Equivalents.

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

(F) **No Increased Conversion Price.** Notwithstanding any other provisions of this Section 4(d)(i), except to the limited extent provided for in Sections 4(d)(i)(E)(2) and (3), no adjustment of the Conversion Price pursuant to this

Section 4(d)(i) shall have the effect of increasing the Conversion Price above the Conversion Price in effect immediately prior to such adjustment.

(ii) Stock Splits and Dividends. In the event the Corporation should at any time after the filing date of this Restated Certificate fix a record date for the effectuation of a split or subdivision of the outstanding shares of Common Stock or the determination of holders of Common Stock entitled to receive a dividend or other distribution payable in additional shares of Common Stock or Common Stock Equivalents without payment of any consideration by such holder for the additional shares of Common Stock or the Common Stock Equivalents (including the additional shares of Common Stock issuable upon conversion or exercise thereof), then, as of such record date (or the date of such dividend distribution, split or subdivision if no record date is fixed), the Conversion Price of each series of Preferred Stock that is convertible into Common Stock shall be appropriately decreased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be increased in proportion to such increase of the aggregate number of shares of Common Stock outstanding and those issuable with respect to such Common Stock Equivalents with the number of shares issuable with respect to Common Stock Equivalents determined from time to time in the manner provided for deemed issuances in Section 4(d)(i)(E).

(iii) Reverse Stock Splits. If the number of shares of Common Stock outstanding at any time after the filing date of this Restated Certificate is decreased by a combination of the outstanding shares of Common Stock, then, following the record date of such combination, the Conversion Price for each series of Preferred Stock that is convertible into Common Stock shall be appropriately increased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be decreased in proportion to such decrease in outstanding shares.

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

(f) Recapitalizations. If at any time or from time to time there shall be a recapitalization of the Common Stock (other than a subdivision, combination or merger or sale of assets transaction provided for elsewhere in Section 2 or this Section 4) provision shall be made so that the holders of each series of Preferred Stock that is convertible into Common Stock shall thereafter be entitled to receive upon conversion of such Preferred Stock the number of shares of stock or other securities or property of the Corporation or otherwise, to which a holder of Common Stock deliverable upon conversion would have been entitled on such recapitalization. In any such case, appropriate adjustment shall be made in the application of the provisions of this Section 4 with respect to the rights of the holders of such Preferred Stock after the recapitalization to the end that the provisions of this Section 4 (including adjustment of the

Conversion Price then in effect and the number of shares issuable upon conversion of such Preferred Stock) shall be applicable after that event and be as nearly equivalent as practicable.

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

(i) No fractional shares shall be issued upon the conversion of any share or shares of Preferred Stock, and the number of shares of Common Stock to be issued shall be rounded down to the nearest whole share. The number of shares issuable upon such conversion shall be determined on the basis of the total number of shares of Preferred Stock the holder is at the time converting into Common Stock and the number of shares of Common Stock issuable upon such aggregate conversion. If the conversion would result in any fractional share, the Corporation shall, in lieu of issuing any such fractional share, pay the holder thereof an amount in cash equal to the fair market value of such fractional share on the date of conversion, as determined in good faith by the Board of Directors.

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

(h) Notice of Record Date. In the event of any taking by the Corporation of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend (other than a cash dividend) or other distribution, any right to subscribe for, purchase or otherwise acquire any shares of stock of any class or any other securities or property, or to receive any other right, the Corporation shall mail to each holder of Preferred Stock, at least 10 days prior to the date specified therein, a notice specifying the date on which any such record is to be taken for the purpose of such dividend, distribution or right, and the amount and character of such dividend, distribution or right.

(i) Reservation of Stock Issuable Upon Conversion. The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of the shares of each series of Preferred Stock that is convertible into Common Stock, such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of such series of Preferred Stock; and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of such series of Preferred Stock, in addition to such other remedies as shall be available to the holder of such Preferred Stock, the Corporation will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes, including, without

limitation, engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to this Restated Certificate.

(i) Notice. Any notice required by the provisions of this Section 4 to be given to the holders of shares of Preferred Stock shall be deemed given if deposited in the U.S. mail, postage prepaid, and addressed to each holder of record at his address appearing on the books of the Corporation.

5. Voting Rights.

(a) General. Except as expressly provided by this Restated Certificate or as provided by law, the holders of Preferred Stock shall have the same voting rights as the holders of the Common Stock and shall be entitled to notice of any stockholders' meeting in accordance with the Bylaws of the Corporation, and the holders of Common Stock and the holders of Preferred Stock shall vote together as a single class on all matters. Each holder of Preferred Stock shall be entitled to the number of votes equal to the number of shares of Common Stock into which such shares of Preferred Stock could be converted. Fractional votes shall not, however, be permitted and any fractional voting rights available on an as-converted basis (after aggregating all shares into which shares of Preferred Stock held by each holder could be converted) shall be rounded to the nearest whole number (with one-half being rounded upward).

(b) Election of Directors. With respect to the election of directors, the holders of Series A Preferred Stock, voting as a separate class, shall be entitled to elect two (2) members of the Board of Directors of the Corporation (the "Series A Preferred Directors"); the holders of Common Stock, voting as a separate class, shall be entitled to elect one (1) member of the Board of Directors of the Corporation; and the holders of the Preferred Stock and the Common Stock, voting together as a single class on an as-converted to Common Stock basis, shall be entitled to elect two (2) members of the Board of Directors of the Corporation.

6. Protective Provisions. So long as at least 500,000 shares (as adjusted for stock splits, stock dividends, reclassification and the like) of Preferred Stock are outstanding, the Corporation shall not (by amendment, merger, consolidation or otherwise) without first obtaining the approval (by vote or written consent, as provided by law) of the holders of at least a majority of the then outstanding shares of Preferred Stock, voting together as a single class on an as-converted to Common Stock basis:

(a) amend in any manner or otherwise change the rights, powers or preferences of the Preferred Stock;

(b) increase or decrease the total number of authorized shares of Common Stock or Preferred Stock;

(c) authorize any other equity security, including any security (other than Series A Preferred Stock) convertible into or exercisable for any equity security, having a preference over, or being on a parity with, the Series A Preferred Stock with respect to rights, powers or preferences set forth in this Restated Certificate;

(d) amend, alter, restate or repeal any provision of this Restated Certificate or Bylaws of the Corporation;

(e) redeem or repurchase any share or shares of Preferred Stock or Common Stock; provided, however, that this restriction shall not apply to the repurchase of shares of Common Stock from employees, officers, directors, consultants or other persons performing services for the Corporation or any subsidiary pursuant to agreements under which the Corporation has the option to repurchase such shares at the original cost thereof upon the occurrence of termination of services;

(f) declare or pay any dividend or any other distribution with respect to any shares of the Corporation's capital stock;

(g) consent, agree, commit to, or effect a Liquidation Transaction;

(h) exclusively license any technology or intellectual property rights in a manner that constitutes the effective disposition of a material portion of the technology or intellectual property of the Corporation;

(i) increase or decrease the number of authorized directors;

(j) permit any subsidiary of the Corporation to do any of the foregoing.

7. **Status of Converted Stock.** In the event any shares of Preferred Stock shall be converted pursuant to Section 4 hereof, the shares so converted shall be cancelled and shall not be issuable by the Corporation. This Restated Certificate shall be appropriately amended to effect the corresponding reduction in the Corporation's authorized capital stock.

(C) **Common Stock.**

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

2. **Liquidation Rights.** Upon the liquidation, dissolution or winding up of the Corporation, or the occurrence of a Liquidation Transaction, the assets of the Corporation shall be distributed as provided in Section 2 of Article IV(B).

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

4. **Voting Rights.** Each holder of Common Stock shall have the right to one vote per share of Common Stock, and shall be entitled to notice of any stockholders' meeting in accordance with the Bylaws of the Corporation, and shall be entitled to vote upon such matters and in such manner as may be provided by law. Subject to the provisions in Section 6 of Article IV(B), the number of authorized shares of Common Stock may be increased or decreased (but

not below the number of shares thereof then outstanding) by the affirmative vote of the holders of shares of stock of the Corporation representing a majority of the votes represented by all outstanding shares of stock of the Corporation entitled to vote, irrespective of the provisions of Section 242(b)(2) of the Delaware General Corporation Law.

ARTICLE V

Except as otherwise set forth herein, the Board of Directors of the Corporation is expressly authorized to make, alter or repeal Bylaws of the Corporation.

ARTICLE VI

Elections of directors need not be by written ballot unless otherwise provided in the Bylaws of the Corporation.

ARTICLE VII

1. To the fullest extent permitted by the Delaware General Corporation Law, as the same exists or as may hereafter be amended, a director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director.

2. The Corporation shall indemnify to the fullest extent permitted by law any person made or threatened to be made a party to an action or proceeding, whether criminal, civil, administrative or investigative, by reason of the fact that he, his testator or intestate is or was a director or officer of the Corporation or any predecessor of the Corporation, or serves or served at any other enterprise as a director or officer at the request of the Corporation or any predecessor to the Corporation.

3. Neither any amendment nor repeal of this Article VII, nor the adoption of any provision of the Corporation's Certificate of Incorporation inconsistent with this Article VII, shall eliminate or reduce the effect of this Article VII in respect of any matter occurring, or any action or proceeding accruing or arising or that, but for this Article VII, would accrue or arise, prior to such amendment, repeal or adoption of an inconsistent provision."

ARTICLE VIII

The Corporation renounces, to the fullest extent permitted by law, any interest or expectancy of the Corporation in, or in being offered an opportunity to participate in, any Excluded Opportunity. An "Excluded Opportunity" is any matter, transaction or interest that is presented to, or acquired, created or developed by, or which otherwise comes into the possession of, (i) any director of the Corporation who is not an employee of the Corporation or any of its subsidiaries, or (ii) any holder of Preferred Stock or any partner, member, director, stockholder, employee or agent of any such holder, other than someone who is an employee of the Corporation or any of its subsidiaries (collectively, "Covered Persons"), unless such matter, transaction or interest is presented to, or acquired, created or developed by, or otherwise comes into the possession of, a Covered Person expressly and solely in such Covered Person's capacity as a director of the Corporation.

ARTICLE IX

Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall be the sole and exclusive forum for (A) any derivative action or proceeding brought on behalf of the Corporation, (B) any action or proceeding asserting a claim of breach of a fiduciary duty owed by any director or officer of the Corporation to the Corporation or the Corporation's stockholders, (C) any action or proceeding asserting a claim against the Corporation arising pursuant to any provision of the Delaware General Corporation Law or the Corporation's Certificate of Incorporation or Bylaws or (D) any action or proceeding asserting a claim against the Corporation governed by the internal affairs doctrine."

* * *

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The foregoing Amended and Restated Certificate of Incorporation has been duly adopted by this corporation's Board of Directors and stockholders in accordance with the applicable provisions of Sections 228, 242 and 243 of the Delaware General Corporation Law.

Executed on May 3, 2012.


Jerry Dyess, Chief Executive Officer

Exhibit A-18 – Proof of Registration in the State of Ohio



DATE	DOCUMENT ID	DESCRIPTION	FLING	EXPED	PENALTY	CERT	COPY
08/17/2012	201222901352	FOREIGN FOR PROFIT CORPORATION - LICENSE (FLP)	125.00	.00		.00	.00

Receipt

This is not a bill. Please do not remit payment.

NORTHWEST REGISTERED AGENT, LLC
906 WEST 2ND AVE
SUITE 100
SPOKANE, WA 99201

**STATE OF OHIO
CERTIFICATE**

Ohio Secretary of State, Jon Husted

2128939

It is hereby certified that the Secretary of State of Ohio has custody of the business records for

CHOOSE ENERGY, INC

and, that said business records show the filing and recording of:

Document(s):

FOREIGN FOR PROFIT CORPORATION - LICENSE

Authorization to transact business in Ohio is hereby given, until surrender, expiration or cancellation of this license.

Document No(s):

201222901352



United States of America
State of Ohio
Office of the Secretary of State

Witness my hand and the seal of the
Secretary of State at Columbus,
Ohio this 13th day of August, A.D. _____
2012.

Jon Husted

Ohio Secretary of State

Exhibit B-1 – Jurisdictions of Operation

State: CT_____	Type of License: No License Required	License No: _____
State: IL_____	Type of License: Electricity Broker	License No: IL: 12-0639_____
State: NJ_____	Type of License: Private Aggregator	License No: NJ BPU: PA-0119_____
State: NY_____	Type of License: No License Required	License No: _____
State: MD_____	Type of License: Electricity Broker	License No: In process_____
State: ME_____	Type of License: Electricity Broker	License No: 2012-00531_____
State: OH_____	Type of License: Power Broker_____	License No: PUCO: 12-588E_____
State: PA_____	Type of License: Electricity Broker	License No: PA PUC: A-2012-2331930_____
State: TX_____	Type of License: No License Required	License No: _____

Exhibit B-2 – Experience & Plans

Summary of Experience

Founded in 2008, Choose Energy, Inc. is a privately funded company that offers online comparison-shopping for electricity and soon natural gas, to residential and small commercial consumers in states with deregulated energy providers. We make this possible by enabling the power and gas companies to bid on consumers' power and gas needs, for their home or business. We currently serve consumers in eight states across the country.

We do not contract with customers to combine electric or natural gas loads. We do assist in the representation for customers to purchase electricity from retail electricity providers.

Over the past three years, over 4 million people have visited ChooseEnergy.com to search for energy related news, education, and the ability to choose their electricity provider. Of those 4 million customers, over 150,000 individuals have successfully used the ChooseEnergy.com operating platform to securely select their retail electricity provider.

In November 2012 the Choose Energy team dedicated millions of dollars to update the site, thereby improving user experience, enhancing security features and having real-time API communications with the back-end EDI systems of the electricity suppliers. By dedicating over \$2 million to this technical integration, the Choose Energy team worked with the leaders at each of the electricity and natural gas providers to understand the best requirements upon which to build the system to scale into the future. Therefore, as the Choose Energy team looks to launch our natural gas platform, we are very confident that we will be offering

the same secure, trustworthy and objective service that we currently offer for electricity customers.

Finally, our leadership team is the premier combination of energy and technology. Through Jerry Dyess, a technology and energy visionary in the deregulated markets, and the rest of our senior management, including experience at: Stephens Capital Partners Retail Electricity, Kleiner Perkins Caufield and Byers, we respect and are excited about the services that Choose Energy will be bringing to the market. It is our intention to serve over 100,000 residential natural gas customers throughout the United States over the next 24 months.

Intended Operations in Ohio

We at Choose Energy, Inc. have brought our historical expertise in SEO, SEM and other direct and indirect sales channels to the Ohio retail electricity market. We have assisted Ohio's REPs enhance their existing customer acquisition methods by driving better understanding of the consumer's options, data and selection criterion.

We now aim to adapt the lessons that we have learned in Ohio's electric market to Ohio's natural gas market, and further educate and convert those consumers that are not benefitting from competitive natural gas supply.

Exhibit B-3 – Summary of Experience

See Exhibit B-2.

Exhibit B-4 – Disclosure of Liabilities and Investigations

Choose Energy has never been implicated in a legal complaint for its service in the energy industry, nor has the company been the subject of any adverse regulatory investigation or action. No other matters have had adverse impacts on either our financial status, our operational status, or our ability to provide the services for which we seek to be certified.

Exhibit C-1 – Annual Reports – Not Applicable

Choose Energy, Inc. is a private company and has not yet begun submitting annual reports to its shareholders. The information provided to shareholders is covered by the exhibits in this application, including Exhibits C-3 through C-6, which represent the financial state of the company, and Exhibit B-2 which includes a summary of our current as well as planned activities.

Exhibit C-2 – SEC Filings – Not Applicable

Choose Energy, Inc. is a private company and has no parent company. As a result, we are not required by the SEC to make 10-K/8-K filings, and therefore have no SEC filings available to share with the State of Ohio.

Exhibit C-3 – Financial Statements

Choose Energy Financial Summary

	FY 2011	FY 2012	Jan-Aug 2013
Income Statement			
Total Revenue	\$ 713,778	\$ 851,522	\$ 856,789
Total Operating Expense	\$ 514,189	\$ 3,146,633	\$ 2,999,453
Net Income / (Loss)	\$ 181,772	\$ (2,306,082)	\$ (2,170,845)

	Dec-11	Dec-12	Aug-13
Balance Sheet			
Total Assets	\$ 514,851	\$ 1,592,857	\$ 7,042,226
Total Liabilities	\$ 204,843	\$ 176,931	\$ 1,286,000
Total Equity	\$ 310,008	\$ 1,415,926	\$ 5,756,226

	FY 2011	FY 2012	Jan-Aug 2013
Cash flow summary			
Cash provided by (used in) Operating Activities	\$ 181,772	\$ (2,225,164)	\$ (1,064,010)
Cash provided by Investing Activities	\$ -	\$ 463,796	\$ 10,533
Cash provided by (used in) Financing Activities	\$ (208,448)	\$ 3,207,157	\$ -

Choose Energy, Inc.'s officers certify these financial statements.

Exhibit C-4 – Financial Arrangements

Not applicable

Exhibit C-5 – Forecasted Financial Statements

National Projections

	FY 2013	FY 2014	FY 2015
Income Statement			
Total Revenue	\$ 1,250,000	\$ 3,000,000	\$ 5,000,000
Total Operating Expense	\$ 3,449,371	\$ 3,966,777	\$ 4,561,794
Net Income / (Loss)	\$ (2,199,371)	\$ (966,777)	\$ 438,206
Balance Sheet			
Total Assets	\$ 8,098,560	\$ 9,313,344	\$ 10,710,345
Total Liabilities	\$ 1,478,900	\$ 1,700,735	\$ 1,955,846
Total Equity	\$ 6,619,659	\$ 7,612,608	\$ 8,754,500
Cash flow summary			
Cash provided by (used in) Operating Activities	\$ (1,223,612)	\$ (1,407,153)	\$ (1,618,226)
Cash provided by Investing Activities	\$ -	\$ -	\$ -
Cash provided by (used in) Financing Activities	\$ -	\$ -	\$ -

Ohio-Specific Projections

	Q4 FY 2013	Q4 FY 2014	Q4 FY 2015
Income Statement			
Total Revenue	\$ 50,000	\$ 120,000	\$ 200,000
Total Operating Expense	\$ 137,975	\$ 158,671	\$ 182,472
Net Income / (Loss)	\$ (87,975)	\$ (38,671)	\$ 17,528
Balance Sheet			
Total Assets	N/A	N/A	N/A
Total Liabilities	N/A	N/A	N/A
Total Equity	N/A	N/A	N/A
Cash flow summary			
Cash provided by (used in) Operating Activities	\$ (48,944)	\$ (56,286)	\$ (64,729)
Cash provided by Investing Activities	\$ -	\$ -	\$ -
Cash provided by (used in) Financing Activities	\$ -	\$ -	\$ -

These projections represent an attempt to forecast 2013, 2014, and 2015 and may not be an accurate representation of actual performance. The guiding assumption used in preparing these estimates is that the company will continue to grow at the same rate over the coming two fiscal years.

Please address any questions to:

John Tough
 Director of Business Development

Choose Energy, Inc. – Ohio (Natural Gas Broker)
Filled out by: Jay Webster, 415-829-3660, jwebster@chooseenergy.com

Choose Energy, Inc.
330 Townsend St., unit 102
San Francisco, CA 94107
E-mail: jtough@chooseenergy.com ; phone: 312.450.5323

Exhibit C-6 – Credit Rating

Choose Energy, Inc. has a neutral credit score as the company maintains essentially zero payables. With little outstanding credit, the company's credit history is limited. Additionally, the company is well-capitalized and intends to maintain limited debtor positions into the future.



Business Credit AdvantageSM Report

as of: 09/18/13 13:51 ET

Choose Energy, LLC

Address: 619 Sword Bridge Dr
Lewisville, TX 75056-5534
United States

Experian BIN: 889426936

Agent: Jerry C. Dyess Jr

Agent Address: 2707 Queen Elaine Drive
Lewisville, TX

Family Linkage:

Ultimate Parent Choose Energy, LLC
619 Sword Bridge Dr
Lewisville, TX

Branches / Alternative Locations Choose Energy, LLC
3740 N Josay Ln Ste 114
Carrollton, TX

Choose Energy, LLC
2707 Queen Elaine Dr
Lewisville, TX

SIC Code: 1382-Oil & Gas Exploration
Services

Business Type: Corporation

Experian File Established: July 2008

Experian Years on File: 5 Years

Years In Business: More than 5 Years

Total Employees: 3

Sales: \$908,000

Filing Date Provided by: Texas

Date of Incorporation: 06/05/2008

This location does not yet have an estimated Days Beyond Terms (DBT), or a Payment Trend Indicator. This is often the result of too few Payment Tradelines.

UCC Filings (see detail): 2

*** Businesses Scoring Worse:** 27%

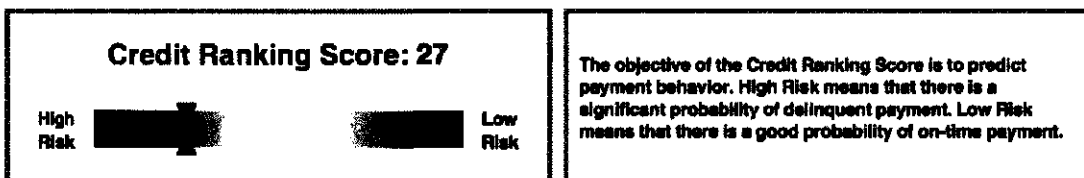
✓ **Bankruptcies:** 0

✓ **Liens:** 0

✓ **Judgments Filed:** 0

✓ **Collections:** 0

Credit Summary



Key Score Factors:

- Nbr of active commercial accts within the last 12 mos.
- Number of commercial accounts with net 1-30 days term.
- Number of recently active commercial accounts.

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• Number of commercial accounts including commercial leases.

Recommended Action: Medium Risk

UCC Filings

Date: 09/10/2013
Filing Number: 1300287079
Jurisdiction: Sec Of State TX
Secured Party: JPMORGAN CHASE BANK, NA KY LOUISVILLE 40232 COLLATERAL MGMT
Activity: Terminated

Date: 09/13/2011
Filing Number: 110026925935
Jurisdiction: Sec Of State TX
Secured Party: JPMORGAN CHASE BANK, NA KY LOUISVILLE 40232 COLLATERAL MGMT
Activity: Filed

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Exhibit C-7 – Credit Report

Please see Exhibit C-6 for both a credit ranking and a credit score.

Exhibit C-8 – Bankruptcy Information

Choose Energy, Inc. has never gone through any reorganizations, been the subject of protection from creditors, or completed any other form of bankruptcy filings.

Exhibit C-9 – Merger Information

Choose Energy, Inc. has not yet filed for certification as a natural gas broker and therefore has not performed any dissolutions, mergers, or acquisitions since we last filed for certification.

Exhibit D-1 - Operations

Technology

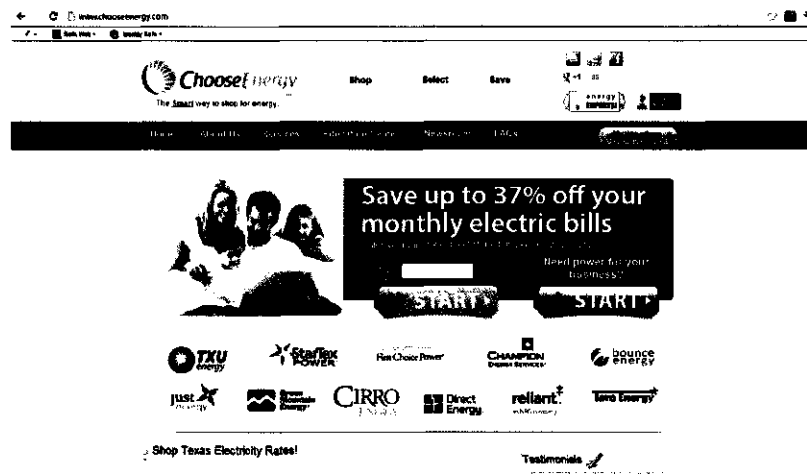
Choose Energy has created the most advanced system that allows customers to shop for energy rates based on price, provider, energy type and many other factors. This allows consumers to gain a greater understanding of their energy choices to make it easier to select an energy provider.

The Company also continues to innovate and provide outstanding power choices for residential and commercial energy customers and now for customers nationwide. It is our mission to provide consumers with the most up to date information available to help them exercise their power to choose. Everything moves fast in today's world. While it is clear business and residential customers want choice - they also want their information quickly. Choose Energy has created solutions for the deregulated energy market that have made it a leader in online customer acquisitions. More and more customers are looking to the Internet to make all of their buying decisions - including energy. Choose Energy has built the technology and partnerships to take advantage of this and make it the market leader in this high growth segment.

Choose Energy also operates a number of additional energy marketing websites including EnergyTX.com, ElectricityTX.com, PowerToChooseGreen.com, TexasPowerCompany.com, PowerIllinois.com and many others that focus on energy savings for consumers and businesses. While our other sites have more focus on customer education and creating awareness for the consumer, all are dedicated to helping lower consumers' power costs. The addition of multiple websites and our recent expansion into additional deregulated energy markets, Choose Energy is poised to become the most used website for energy related transactions in the U.S today.

About the Site: Marketing and Customer Focus

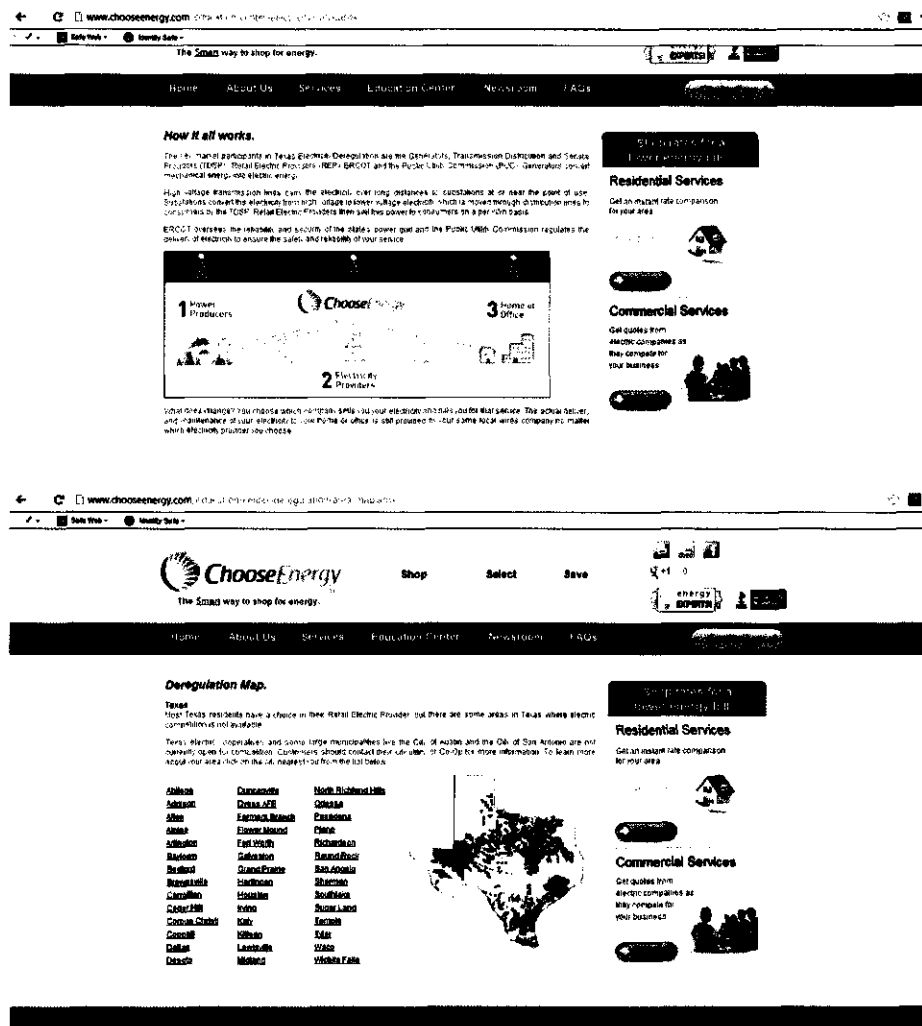
Choose Energy aims to make our website easy to navigate for the consumer. We have performed significant testing to maximize site operations and simplify the process of selecting energy for the consumer or commercial entity.



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In addition, we have a full section to our website dedicated to educating the consumer about the intricacies, methods, and safety of the competitive retail electricity and natural gas markets. The content we post on our website helps consumers gain a better understanding of the way the deregulated market works and those consumers can then easily reach out to us at Choose Energy through our support@chooseenergy.com email address or our toll-free number (1.800.333.1411) to ask any more questions.

Below are a few screenshots of the education pages on deregulated electricity markets:



About the Site: Consumer Sign-Up Process

Once customers are comfortable with the Choose Energy platform, they are led through a series of steps, inputting the requisite information (such as: zip code, address and estimated energy usage). Choose Energy utilizes the latest in remote desktop server security systems to protect and secure customer information. Choose Energy is compliant with all PII server security requirements.

When browsing, the customer can select which options in their electricity and natural gas plans are most important to them, either: price, term, provider, pre-pay, most popular, or green options. And with those preferences selected, the consumer receives an optimized outcome specified precisely for their interests. Below is a sample screenshot of a selection page:

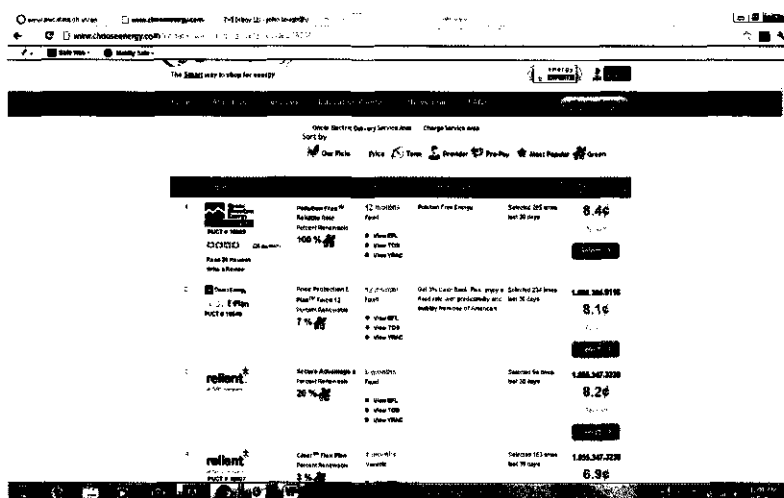


Exhibit D-2 – Operations Expertise

See 'Summary of Expertise' in Exhibit B-2.

Exhibit D-3 – Key Technical Personnel

Individual # 1

Jerry Dyess, Chief Executive Officer

Bio: Jerry Dyess has over 15 years experience developing and leading strategies in the information technology and energy procurement industries. As CEO, Jerry oversees the company's business development and marketing campaigns, manages provider relations, and is responsible for driving the company's strategic growth.

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Jerry's entrepreneurial career began in 2002 when he cofounded EnergyTX.com in Dallas, Texas at the start of electricity deregulation in Texas. With EnergyTX, Jerry developed partnerships and managed the company's sales and marketing before selling the book of business to Priority Power Management in 2005. Prior to EnergyTX, Jerry held a series of senior business development and management positions in the information technology, Internet and deregulated telecom industries.

Jerry Dyess has been leading ChooseEnergy.com in Texas since 2005, generating tens of thousands of residential and commercial leads for Retail Electricity Providers in the Texas area, cumulatively saving Texas consumers millions of dollars in energy bills.

Email: jdyess@chooseenergy.com – Number: 469-361-2971

Individual # 2

Jay Webster, President

Jay has over 20 years of experience working in almost every aspect of technology startups. Jay has previously served as Chief Product Officer for Sharethrough & Quova, GM of Lead Generation for Yahoo!, GM of Performance Marketing and CTO for BlueLithium. Jay has a degree in Biology from University of California, Santa Cruz.

Email: jwebster@chooseenergy.com - Number: 650-430-2394

Individual # 3

John Tough, Director of Business Development

Prior to joining Choose Energy, John worked with Kleiner Perkins Caufield & Byers where he focused on platform investments that united the energy and technology industries. John has also spent time at XMS Capital Partners and UBS Investment Bank where he specialized in growth and M&A capital advisory services. John received his B.S. from Duke University in biology and chemistry, and completed his MBA from the University of Chicago Booth School of Business, where he was a recipient of the Class Leadership Award.

Email: jtough@chooseenergy.com - Number: 312-450-5253

Individual # 4

David Mount, Board Member and Partner at Kleiner Perkins Caufield & Byers

David Mount joined Kleiner Perkins Caufield & Byers as a partner in 2008. He is a member of the greentech team at KPCB and focuses on investments in the Green Growth Fund. Within greentech, David focuses on investments in the smart grid, lighting, wind, storage, industrial efficiency and energy enterprise software sectors. He has worked closely with the teams at Hara Software, Luca Technologies, OPOWER, OSIsoft, Silver Spring Networks and UpWind Solutions.

David has been investing in energy and technology since 2003. Before joining KPCB, he worked on the petrochemical and oil and gas portfolios at Sankaty Advisors, a unit of Bain Capital. He also worked at AES, evaluating geothermal projects in Southeast Asia, and at MissionPoint Capital, pursuing growth equity opportunities in green energy markets.

David received a B.A. degree from Yale University and an M.S. degree in environment and resources from Stanford University. He completed his M.B.A. at the Stanford Graduate School of Business, where he was an Arjay Miller Scholar. He remains involved in course development at the Stanford Graduate School of Business and School of Earth Sciences.

Individual # 5

Justin Courtney, Board Member and Senior Vice President at Stephens

Justin is a Senior Vice President at Stephens Inc., one of the largest independent investment banks in the U.S. At Stephens, Justin leads the firm's retail energy sector coverage. Mr. Courtney has completed over 50 M&A, IPO and financing transactions for public and private companies. Mr. Courtney received his BBA with honors from Oklahoma State University where he was distinguished as a Top Ten Graduate and Outstanding Young Alumni. Mr. Courtney is also certified by the Association of Energy Engineers as a Certified Energy Procurement Professional.

Individual # 6

Thomas Nourse, Director of Engineering

Thomas spent 6 years at Google where he was tech lead for Google Maps for Android, pushing adoption of the app past 150 million monthly users and filing 10 patents. Prior to that, he lead key reporting and analytics projects at Google in AdWords and Analytics. Thomas received his M.S. in Software Engineering and B.S. in Computer Science both from Carnegie Mellon University.

Other Key Personnel:

Other key personnel at Choose Energy have experience spanning advertising, customer management, advertising technologies, digital platform creation, energy markets, and operational execution and risk management. Through these cumulative skills, the team has the ability to manage and protect large forms of data as the firm enters new regions. Additionally, many members of the Company have successfully implemented comparable platforms in similarly-regulated industries.