

FILED AT THE REQUEST OF:  
Von Hansen  
6149 N. Meeker Place, Suite 250  
Boise, Idaho 83713

2015 JUL 14 PM 1:39

SECRETARY OF STATE  
STATE OF IDAHO

FILED BY:  
Brian Larsen  
Stoel Rives LLP  
101 S. Capitol Blvd, Ste 1900  
Boise, Idaho 83702

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**FIRST AMENDMENT  
TO  
AMENDED AND RESTATED  
ARTICLES OF INCORPORATION  
OF  
ALERTSENSE, INC.**

The undersigned, Von Hansen, hereby certifies that he is the President of AlertSense, Inc., an Idaho corporation (the "**Corporation**"), and further certifies that:

1. The Corporation is authorized to issue: (i) 50,000,000 shares of common stock, no par value ("**Common Stock**"); and (ii) 20,000,000 shares of preferred stock, no par value ("**Preferred Stock**") of which 8,000,000 shares are hereby designated as "Series A" Preferred Stock. The Certificate of Designations, Rights, and Preferences attached hereto as Exhibit A and designating the Series A Preferred Stock is hereby incorporated into and made part of the Articles of Incorporation.

2. By action taken by the Board of Directors of the Corporation (the "**Board**") by unanimous written consent, dated June 12, 2014, the First Amendment to the Amended and Restated Articles of Incorporation set forth below was duly adopted by the Board.

3. The First Amendment to the Amended and Restated Articles of Incorporation does not provide for any exchange, reclassification, or cancellation of issued shares.

IN WITNESS WHEREOF, the undersigned has subscribed this First Amendment to the Amended and Restated Articles of Incorporation effective as of July 13, 2015.



Von Hansen  
Chief Executive Officer

IDAHO SECRETARY OF STATE  
**07/14/2015 05:00**  
CK:873016 CT:84697 BH:1483910  
1@ 30.00 = 30.00 AMEND PROF #2

C128824

EXHIBIT A

ALERTSENSE, INC.

SERIES A PREFERRED STOCK  
CERTIFICATE OF DESIGNATIONS, RIGHTS, AND PREFERENCES

As permitted by the Amended and Restated Articles of Incorporation of AlertSense, Inc., an Idaho corporation (the “**Corporation**”), as may be amended from time to time (the “**Articles**”), there is hereby designated a series of Preferred Stock to be known as Series A Preferred Stock (the “**Series A Preferred Stock**”), consisting of 8,000,000 shares, no par value per share, having the following rights, preferences, privileges and limitations:

1. **Dividend Rights.** The holders of Preferred Stock are entitled to receive, out of any assets of the Corporation, legally available for such purpose, on an as-converted basis, such dividends when, and if declared by the Board on shares of Common Stock. The right to such dividends on the Preferred Stock is not cumulative, and no rights accrue to the holders of Preferred Stock by reason of the fact that dividends on such shares are not declared or paid in any prior year.

2. **Liquidation Rights**

(a) In the event of any liquidation, dissolution, or winding up of the Corporation, whether voluntary or involuntary:

(i) First, each holder of shares of Series A Preferred Stock then outstanding is entitled to receive an amount per share equal to one (1) time the Series A Original Issue Price, plus any dividends declared but unpaid thereon;

(ii) Second, after payment of all preferential amounts required to be paid to the holders of Series A Preferred Stock, each holder of Common Stock and each holder of Preferred Stock (on an as-converted basis) is entitled to share in all such remaining assets and surplus funds on a pro-rata basis.

For purposes of the foregoing, the “**Series A Original Issue Price**” means \$1.00, subject to appropriate adjustment in the event of any stock dividend, stock split, combination, or other similar recapitalization and the like.

If the assets and surplus funds available for distribution among the holders of Series A Preferred Stock are insufficient to pay the holders of the Series A Preferred Stock the full amount to which they are entitled hereunder, then the assets and surplus funds then remaining legally available for distribution will be distributed ratably among the holders of Series A Preferred Stock in proportion to the respective amounts that would otherwise be payable to such holders upon distribution if all amounts on or with respect to such shares were paid in full.

(b) A merger or consolidation (other than one in which shareholders of the Corporation own a majority by voting power of the outstanding shares of the surviving or

acquiring corporation) and a sale, lease, transfer, exclusive license or other disposition of all or substantially all of the assets of the Corporation will be treated as a liquidation event (a “***Deemed Liquidation Event***”), thereby triggering payment of the liquidation preferences described above unless the holders of a majority of the Series A Preferred Stock elect otherwise. The holders of Series A Preferred Stock’s entitlement to the liquidation preference shall not be abrogated or diminished in the event part of the consideration is subject to escrow in connection with a Deemed Liquidation Event.

### 3. Voting Rights

(a) General. Each holder of Series A Preferred Stock is entitled to vote on all matters and is entitled to the number of votes equal to the total number of shares of Common Stock into which such holder’s shares of Preferred Stock are convertible as of the record date for determination of shareholders entitled to vote or consent on such matter or, if no record date is established, as of the date on which notice of the meeting of shareholders at which the vote is to be taken is mailed, or the date any written consent of shareholder is solicited if the action is to be taken by written consent. Fractional votes will not be permitted, but will be rounded up or down to the nearest whole number.

(b) Election of Directors. The Board shall consist of either five (5) or seven (7) directors. For so long as shares of Series A Preferred Stock are outstanding and the Board has no more than five (5) directors, the holders of Series A Preferred Stock, voting exclusively and as a separate class, shall elect three (3) directors to the Board (the “***Series A Directors***”). Any Series A Director elected as provided herein may be removed without cause by, and only by, the affirmative vote of a majority of the holders of the outstanding shares entitled to elect the Series A Directors. If the holders of the outstanding shares of Series A Preferred Stock fail to elect a director as provided herein, then such Series A directorship remains vacant until the holders of the outstanding shares of Series A Preferred Stock elect a person to fill such directorship. No Series A directorship may be filled by shareholders of the Corporation other than by the holders of the outstanding shares of the Series A Preferred Stock, voting exclusively as a separate voting group. The holders of the outstanding shares of Common Stock and the holders of the outstanding shares of Preferred Stock, voting together as a single voting group (on an as-converted basis), shall elect the balance of the directors of the Corporation. At any meeting held for the purpose of electing a director, the presence in person or by proxy of the holders of a majority of the outstanding shares of the class or series entitled to elect such director shall constitute a quorum for the purpose of electing such director.

(c) Increase to Authorized Preferred. Any increase to the number of authorized shares of Preferred Stock requires the affirmative vote of the holders of a majority of the outstanding shares of Preferred Stock, voting exclusively as a separate voting group.

### 4. Conversion

(a) Right to Convert

(i) Conversion of Series A Preferred Stock. Each share of Series A Preferred Stock is convertible, at the option of the holder, at any time after the date of issuance of such

share and prior to the close of business on any redemption date, at the office of the Corporation or any transfer agent for the Series A Preferred Stock, into fully paid and nonassessable shares of Common Stock. The number of such shares of Common Stock is equal to one (1) time the number of shares of Common Stock determined by dividing the Series A Original Issue Price by the Series A Conversion Price at the time in effect for such share. The “***Series A Conversion Price***” is the price at which shares of Common Stock are deliverable upon conversion, and is initially set at \$1.00 per share; *provided*, however, that the Series A Conversion Price is subject to adjustment as provided below.

(ii) Each share of Series A Preferred Stock will be automatically converted into shares of Common Stock as set forth above at the then-effective Series A Conversion Price immediately upon the consummation of the Corporation’s sale of its Common Stock in a bona fide, firm commitment underwriting pursuant to a registration statement on Form S-1 under the Securities Act of 1933, as amended, resulting in gross proceeds to the Corporation (before underwriting commissions and discounts) of at least \$25,000,000 (a “***Qualified Public Offering***”).

(iii) Each share of Series A Preferred Stock automatically converts into shares of Common Stock as set forth above at the then-effective Series A Conversion Price immediately upon the vote to convert by the holders of a majority of the outstanding Series A Preferred Stock, voting exclusively as a separate voting group.

(b) Mechanics of Conversion

(i) Before any holder of Series A Preferred Stock is entitled to convert the same into shares of Common Stock under Section 4(a), such holder shall surrender the certificate(s) for the holder’s shares of Series A Preferred Stock, duly endorsed, at the office of the Corporation or of any transfer agent for the Series A Preferred Stock, and shall give written notice by mail, postage prepaid, to the Corporation at its principal corporate office, of the election to convert the same, stating the name or names in which the certificate(s) for shares of Common Stock are to be issued. The Corporation shall, as soon as practicable, issue and deliver to such holder of Series A Preferred Stock or to the designee(s) of such holder, the certificate(s) for the number of shares of Common Stock to which such holder is entitled. Such conversion will be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of Series A Preferred Stock to be converted, and the person(s) entitled to receive the shares of Common Stock issuable upon such conversion will be treated for all purposes as the record holder(s) of such shares of Common Stock as of such date. If the conversion is in connection with an underwritten offer of securities registered pursuant to the Securities Act of 1933, as amended (the “***Exchange Act***”), the conversion may, at the option of any holder tendering Series A Preferred Stock for conversion, be conditioned upon the closing with the underwriter of the sale of securities pursuant to such offering, in which event the person(s) entitled to receive the Common Stock issuable upon such conversion of the Series A Preferred Stock will not be deemed to have converted such stock until immediately prior to the closing of such sale of securities.

(ii) In the event some but not all of the shares of Series A Preferred Stock represented by a certificate or certificates surrendered by a holder are converted, the Corporation

shall execute and deliver to holder, or such person(s) designated by the holder, at the expense of the Corporation, a new certificate representing the shares of Series A Preferred Stock that were not converted.

(c) Conversion Price Adjustments of Preferred Stock

(i) If at any time after the date on which the first share of Series A Preferred Stock was issued (the “*Series A Original Issue Date*”) the Corporation issues Additional Shares of Common Stock, without consideration or for a consideration per share less than the Series A Conversion Price in effect immediately prior to such issuance, then, and only upon the first such issuance of Additional Shares of Common Stock and thereafter, no further conversion price adjustments of Preferred Stock shall be made in the event of the sale of Additional Shares of Common Stock, the Series A Conversion Price will be adjusted in accordance with the following formula:

$$CP2 = CP1 * (A + B) \div (A + C).$$

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

“**CP2**” means the Series A Conversion Price in effect immediately after such issue of Additional Shares of Common Stock;

“**CPI**” means the Series A Conversion Price in effect immediately prior to such issue of Additional Shares of Common Stock;

“**A**” means the number of shares of Common Stock outstanding immediately prior to such issue of Additional Shares of Common Stock (treating for this purpose as outstanding all shares of Common Stock issuable upon exercise of Options outstanding immediately prior to such issue or upon conversion or exchange of Convertible Securities (including the Series A Preferred Stock) outstanding (assuming exercise of any outstanding Options therefor) immediately prior to such issue);

“**B**” means the number of shares of Common Stock that would have been issued if such Additional Shares of Common Stock had been issued at a price per share equal to CPI (determined by dividing the aggregate consideration received by the Corporation in respect of such issue by CPI); and

“**C**” means the number of such Additional Shares of Common Stock issued in such transaction.

(ii) Upon the first adjustment of the Series A Conversion Price as set forth in Section 4(c)(i), the right to adjustment of the Series A Conversion Price will be extinguished and the Series A Conversion Price will be fixed at the then-current Series A Conversion Price. For avoidance of doubt, upon the first occurrence of adjustment of the Series A Conversion Price as set forth in Section 4(c)(i), the Series A Conversion Price will no longer be readjusted in the same manner upon the occurrence of any successive issuance of Additional Common Stock.

(iii) For purposes of this Section 4(c), the following definitions shall apply:

**“Options”** means rights, options or warrants to subscribe for, purchase or otherwise acquire Common Stock or Convertible Securities.

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

**“Additional Shares of Common Stock”** means all shares of Common Stock issued by the Corporation after the Series A Original Issue Date, other than (1) the following shares of Common Stock, and (2) shares of Common Stock deemed issued pursuant to the following Options and Convertible Securities (defined below) (clauses (1) and (2), collectively, the **“Exempted Securities”**):

(A) shares of Common Stock issued by reason of the conversion of Series A Preferred Stock; or

(B) shares of Common Stock or Options 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; or

(C) 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 an Option or Convertible Security in existence on the Series A Original Issue Date; or

(D) shares of Common Stock, Options or Convertible Securities issued as a dividend or distribution on Series A Preferred Stock; or

(E) 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 the Articles; or

(F) shares of Common Stock issued in connection with a Qualified Public Offering; or

(G) shares of Common Stock, Options or Convertible Securities issued 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, provided, that such issuances are approved by the Board; or

(H) shares of Common Stock, Options or Convertible Securities issued to banks, equipment lessors or other financial institutions, pursuant to a debt financing or equipment leasing transaction approved by the Board; or

(I) shares of Common Stock, Options or Convertible Securities that are deemed Exempted Securities by consent of at least two-thirds of the holders of Series A Preferred Stock.

(d) Recapitalizations. If the Common Stock issuable upon the conversion of Series A Preferred Stock is changed into the same or a different number of shares of any class(es) of stock of the Corporation, whether by capital reorganization, reclassification or otherwise (other than a subdivision or combination of shares or stock dividend provided for elsewhere in this Section 4 or a merger, consolidation, share exchange or reorganization provided for in Section 2(b)), then and in each such event each share of Series A Preferred Stock will be convertible into the kind and amount of shares of stock and other securities and property receivable upon such reorganization, reclassification or other change by the number of shares of Common Stock into which such share of Series A Preferred Stock might have been converted immediately prior to such reorganization, reclassification or change, all subject to further adjustment as provided herein.

(e) No Fractional Shares; Certificates as to Adjustment

(i) No fractional shares of Common Stock or scrip representing fractional shares will be issued upon the conversion of shares of Series A Preferred Stock, but the Corporation shall pay to the holder of such shares a cash adjustment in respect of such fractional shares in an amount equal to the same fraction of the market price per share of the Common Stock (as determined in a reasonable manner prescribed by the Board) at the close of business on the applicable conversion date. The determination as to whether or not any fractional shares are issuable is based on the total number of shares of Series A Preferred Stock being converted at any one time by any holder, not upon each share of Series A Preferred Stock being converted.

(ii) In each case of an adjustment or readjustment of the Series A Conversion Price, the Corporation, at its own expense, will furnish each holder of Series A Preferred Stock with a certificate, signed by the Corporation's Chief Financial Officer or Treasurer, showing such adjustment or readjustment and stating in detail the facts upon which such adjustment or readjustment is based.

(f) 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 such number of its shares of Common Stock as shall be sufficient to effect the conversion of all outstanding shares of the Series A Preferred Stock; and, if at any time the number of authorized but unissued shares of Common Stock are not sufficient to effect the conversion of all then-outstanding shares of the Series A Preferred Stock, then in addition to such other remedies 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.

(g) Notices. In the event:

(i) the Corporation takes a record of the holders of its Common Stock (or other capital stock or securities at the time issuable upon conversion of the Series A Preferred Stock) for the purpose of entitling or enabling them to receive any dividend or other distribution, or to receive any right to subscribe for or purchase any shares of capital stock of any class or any other securities, or to receive any other security; or

(ii) of any capital reorganization of the Corporation, any reclassification of the Common Stock of the Corporation, or any Deemed Liquidation Event; or

(iii) of the voluntary or involuntary dissolution, liquidation or winding-up of the Corporation,

then, and in each such case, the Corporation shall send or cause to be sent to the holders of the Series A Preferred Stock a notice specifying, as the case may be, (i) the record date for such dividend, distribution or right, and the amount and character of such dividend, distribution or right, or (ii) the effective date on which such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation or winding-up is proposed to take place, and the time, if any is to be fixed, as of which the holders of record of Common Stock (or such other capital stock or securities at the time issuable upon the conversion of the Series A Preferred Stock) are entitled to exchange their shares of Common Stock (or such other capital stock or securities) for securities or other property deliverable upon such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation or winding-up, and the amount per share and character of such exchange applicable to the Series A Preferred Stock and the Common Stock. Such notice must be sent out prior to the record date and at least ten (10) days prior to the effective date for the event specified in such notice.

Any notice required by the provisions of this Section 4(g) to be given to the holders of shares of Series A Preferred Stock is deemed given if deposited in the United States mail, postage prepaid, and addressed to each holder of record at such holder's address appearing on the books of the Corporation.

(h) Taxes. The Corporation shall pay any and all issue and other similar 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 Stock pursuant to this Section 4. However, the Corporation is not 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 Stock so converted was registered, and no such issuance or delivery will 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.

## **5. Redemption Rights**

(a) Subject to Section 5(b), Section 5(c) and the Act, the Corporation shall redeem all outstanding shares of Series A Preferred Stock (plus all accrued but unpaid dividends), if, at any time after December 31, 2015, the holders of at least a majority of the outstanding shares of Series A Preferred Stock approve such a redemption. The Corporation shall redeem Series A Preferred Stock in an amount per share equal to one (1) time the Series A Original Issue Price. The Company shall make redemption payments to the holders of the outstanding shares of Series A Preferred Stock in three equal annual installment payments, with final payment on the third anniversary of the approval of the redemption.



(b) The Corporation is not obligated to effect the redemption if, after giving effect, either: (i) the Corporation would not be able to pay its debts as they become due in the usual course of business; or (ii) the Corporation's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the Corporation were to be dissolved at the time of the redemption, to satisfy any preferential rights upon dissolution of shareholders whose preferential rights are superior to those receiving the redemption.

(c) If a redemption is to be effected in accordance with this Section 5, the Corporation shall provide prompt written notice to all holders of Series A Preferred Stock (the "**Redemption Notice**"). Any holder of Series A Preferred Stock may elect to affirmatively opt-out of any such redemption by providing notice of such election with five (5) days of receipt of the Redemption Notice (each, an "**Opt-Out Notice**"). Absent receipt of an Opt-Out Notice, the Corporation shall presume that each holder of Series A Preferred Stock has elected to redeem such holders shares of Series A Preferred Stock.

(d) All shares of Series A Preferred Stock acquired by the Corporation in accordance with this Section 5 constitute authorized but unissued shares available for reissue. Accordingly, the Board shall amend these Articles in accordance with § 30-1-1005(6) of the Act to reflect the reduction in authorized shares.

## **6. Protective Provisions.**

(a) In addition to any other rights provided by the Act, so long as shares of Series A Preferred Stock are outstanding, in addition to any other vote or approval required under these Articles or the Corporation's Amended and Restated Bylaws (the "**Bylaws**"), the Corporation shall not, without the affirmative vote or approval of the holders of at least a majority of the outstanding Series A Preferred Stock, either directly or by amendment, merger, consolidation, or otherwise: (i) liquidate, dissolve or wind up the affairs of the Corporation, or effect any merger or consolidation or any other Deemed Liquidation Event; (ii) amend, alter, or repeal any provision of these Articles or the Bylaws; (iii) create or authorize the creation of or issue any other security convertible into or exercisable for any equity security, having rights, preferences or privileges senior to or on parity with the Series A Preferred Stock, or increase the authorized number of shares of Series A Preferred Stock; (iv) purchase or redeem or pay any dividend on any capital stock prior to the Series A Preferred Stock, other than as approved by the Board, including the approval of the Series A Directors; (v) create or authorize the creation of any debt security unless such debt security has received the prior approval of the Board, including the approval of the Series A Directors; (vi) create or hold capital stock in any subsidiary that is not a wholly-owned subsidiary or dispose of any subsidiary stock or all or substantially all of any subsidiary assets; or (vii) increase the size of the Board.

(b) So long as the holders of Series A Preferred Stock are entitled to elect a Series A Director, the Corporation shall not, without Board approval, which approval must include the affirmative vote of all of the Series A Directors: (i) make any loan or advance to, or own any stock or other securities of, any subsidiary or other corporation, partnership, or other entity unless it is wholly owned by the Corporation; (ii) make any loan or advance to any person, including, any employee or director, except advances and similar expenditures in the ordinary course of business or under the terms of an employee stock or option plan approved by the

Board; (iii) guarantee, any indebtedness except for trade accounts of the Corporation or any subsidiary arising in the ordinary course of business; (iv) make any investment inconsistent with any investment policy approved by the Board; (v) incur any aggregate indebtedness in excess of \$100,000.00 that is not already included in a Board-approved budget, other than trade credit incurred in the ordinary course of business; (vi) enter into or be a party to any transaction with any director, officer or employee of the Corporation or any "associate" (as defined in Rule 12b-2 promulgated under the Exchange Act) of any such person except transactions made in the ordinary course of business and pursuant to reasonable requirements of the Corporation's business and upon fair and reasonable terms that are approved by a majority of the Board; (vii) hire, fire, or change the compensation of the executive officers, including approving any option grants; (viii) change the principal business of the Corporation, enter new lines of business, or exit the current line of business; (ix) sell, assign, license, pledge or encumber material technology or intellectual property, other than licenses granted in the ordinary course of business; or (x) enter into any corporate strategic relationship involving the payment, contribution, or assignment by the Corporation or to the Corporation of assets greater than \$100,000.00.