

# Delaware

PAGE 1

*The First State*

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 "PLANET PAYMENT, INC.", FILED IN THIS OFFICE ON THE EIGHTH DAY OF JUNE, A.D. 2009, AT 2:41 O'CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.

3109568 8100

090597456



You may verify this certificate online  
at [corp.delaware.gov/authver.shtml](http://corp.delaware.gov/authver.shtml)

  
Jeffrey W. Bullock, Secretary of State  
AUTHENTICATION: 7348639

DATE: 06-08-09

AMENDED AND RESTATED  
CERTIFICATE OF INCORPORATION  
OF  
PLANET PAYMENT, INC.

Planet Payment, Inc. a corporation organized and existing under the laws of the State of Delaware (the "*Corporation*") hereby certifies as follows:

**FIRST** The name of the corporation is Planet Payment, Inc., and it is a Delaware corporation. The original certificate of incorporation was filed with the Secretary of State on October 12, 1999 under the name "Planet Group, Inc."

**SECOND** This Amended and Restated Certificate of Incorporation restates and integrates and further amends the provisions of the Corporation's Certificate of Incorporation as heretofore amended or supplemented. This Certificate has been duly adopted in accordance with the provisions of Sections 228, 242 and 245 of the General Corporation Law of the State of Delaware, by resolutions of the directors and stockholders of the Corporation.

**THIRD** The Certificate of Incorporation of the Corporation is hereby amended and restated to read in its entirety, as follows:

1. The name of the Corporation is Planet Payment, Inc.
2. The address of its registered office in the State of Delaware is Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, County of New Castle. The name of its registered agent at such address is The Corporation Trust Company.
3. The nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.
4. The total number of shares of stock, which the Corporation shall have authority to issue is 70,000,000 shares of Common Stock of \$0.01 par value each ("*Common Stock*") and 4,000,000 shares of Convertible Preferred Stock of \$0.01 par value each ("*Preferred Stock*"). The Preferred Stock shall have attached thereto all such rights and privileges as may be determined by resolution of the Board of Directors of the Corporation, prior to the issuance thereof and as set forth in a Certificate of Designation relating to the Preferred Stock to be executed and filed pursuant to Section 151(g) of the General Corporation Law of the State of Delaware. As of the date of filing of this Amended and Restated Certificate of Incorporation, an aggregate of 2,243,750 shares of Preferred Stock have been designated as "Series A Preferred Stock", with the rights, preferences, privileges and restrictions set forth on the Certificate of Designation attached hereto as Exhibit A.
5. 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 except for liability (i) for any breach of the director's duty of loyalty to the Corporation or its stockholders,

(ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the Delaware General Corporation Law, or (iv) for any transaction from which the director derived any improper personal benefit.

6. Any amendment, alteration or repeal of any provision of, or addition of any provision to, the Corporation's certificate of incorporation, or any other action which would adversely affect the rights of holders of the Common Stock with respect to voting, dividends, liquidation preferences, conversion or redemption, shall not be adopted or effected unless approved by (i) the holders of shares of Common Stock, present in person or by proxy at any meeting of stockholders duly called and held, carrying not less than 67% of the votes of shares of Common Stock held by persons present in person or by proxy at such meeting; or (ii) a written resolution relating to such matters signed by the holders of not less than 67% of the issued and outstanding shares of Common Stock in the Company.

IN WITNESS WHEREOF, said corporation has caused this Amended and Restated Certificate of Incorporation to be signed by its duly authorized officer this 8th day of June, 2009 and the foregoing facts stated herein are true and correct.

**PLANET PAYMENT, INC.**

By: /s/ Philip D. Beck

Name: Philip D. Beck

Title: President/CEO

Exhibit A

**CERTIFICATE OF DESIGNATION OF  
SERIES A PREFERRED STOCK OF  
PLANET PAYMENT, INC.**

**A. Designation and Amount.** Of the 4,000,000 shares of Preferred Stock, par value \$0.01 per share, authorized to be issued by this corporation, 2,243,750 shares are hereby designated as "Series A Preferred Stock." Such number of shares may be increased or decreased by resolution of the Corporation's Board of Directors, provided that no decrease shall reduce the number of shares of Series A Preferred Stock to a number less than the number of shares then outstanding.

**B. Rights, Preferences and Restrictions of Series A Preferred Stock.** The rights, preferences, privileges and restrictions granted to and imposed on the Series A Preferred Stock are as follows:

**1. Definitions.**

- (a) "**Board**" shall mean the Board of Directors of the Corporation.
- (b) "**Corporation**" shall mean this corporation.
- (c) "**Common Stock**" shall mean the Common Stock, \$0.01 par value, of the Corporation.
- (d) "**Common Stock Dividend**" shall mean a stock dividend declared and paid on the Common Stock that is payable in shares of Common Stock.
- (e) "**Common Stock Even**" shall mean (i) the issue by the Corporation of additional shares of Common Stock as a Common Stock Dividend or other distribution on outstanding Common Stock, (ii) a subdivision of the outstanding shares of Common Stock into a greater number of shares of Common Stock, or (iii) a combination of the outstanding shares of Common Stock into a smaller number of shares of Common Stock.
- (f) "**Conversion Price**" shall mean \$1.31 as of the date of filing of this Amended and Restated Certificate of Incorporation, as adjusted pursuant to Section 4.4 below.
- (g) "**Convertible Securities**" shall mean stock or other securities convertible into or exchangeable for shares of Common Stock.
- (h) "**Merger**" shall mean a consolidation or merger (or similar transaction or series of transactions) of the Corporation with or into any other corporation or corporations or the sale of all of the capital stock of the Corporation in a single transaction or series of related transactions, in each case under circumstances in which the holders of the Corporation's outstanding shares immediately before such transaction or series of related transactions do not,

immediately after such transaction or series of related transactions, retain stock representing a majority of the voting power of the surviving corporation (or its parent corporation if the surviving corporation is wholly owned by the parent corporation) of such transaction or series of related transactions, on account of the shares of capital stock of the Corporation held by them immediately prior to such transaction or series of related transactions.

(i) "**Original Issue Date**" shall mean November 10, 2004, the date on which the first share of Series A Preferred Stock was issued by the Corporation.

(j) "**Original Issue Price**" shall mean \$4.00, which is the price per share for the Series A Preferred Stock paid by the Purchasers in Section 1 of the Subscription Agreement (as defined below), as adjusted to the extent necessary to reflect any Preferred Stock Event.

(k) "**Preferred Stock**" shall mean the Series A Preferred Stock and any other series of Preferred Stock authorized under the Certificate of Incorporation of the Corporation.

(l) "**Preferred Stock Event**" shall mean any of the following events occurring after the Original Issue Date: (A) the issuance by the Corporation of additional shares of Series A Preferred Stock as a dividend or other distribution on the outstanding shares of Series A Preferred Stock, (B) a subdivision of the outstanding shares of Series A Preferred Stock into a greater number of shares of Series A Preferred Stock, (C) a combination of the outstanding shares of Series A Preferred Stock into a small number of shares of Series A Preferred Stock, and (D) the conversion or exchange of the outstanding shares of Series A Preferred Stock into a different number of shares of some other class or classes of stock whether by recapitalization, reclassification or otherwise; provided, however, that in no event shall a Preferred Stock Event be deemed to include any liquidation, dissolution or winding up of the Corporation provided for in Section 2 or any conversion or other adjustment event described in Section 4.

(m) "**Rights or Options**" shall mean warrants, options or other rights to purchase or acquire shares of Common Stock or Convertible Securities.

(n) "**Series A Preferred Stock**" shall mean the Series A Preferred Stock, \$0.01 par value per share, of the Corporation.

(o) "**Subscription Agreement**" shall mean that certain Subscription Agreement dated November 10, 2004, among the Company and the persons and entities listed on Schedule 1 thereto, as amended by that certain letter agreement dated October 31, 2005, as further amended from time to time. The Subscription Agreement is incorporated by reference into this Certificate of Designation. A copy of the Subscription Agreement is on file in the office of the Secretary of the Corporation, and may be obtained by holders of Series A Preferred Stock upon written request to the Secretary of the Corporation.

(p) "**Valuation**" shall have the meaning ascribed to such term in the Subscription Agreement.

2. **Liquidation Rights.** In the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, the funds and assets that may be legally



exchange or the Nasdaq National Market (or a similar national quotation system), then the value shall be deemed to be the average of the closing prices of the securities on such exchange or system over the 30 day period ending three days prior to the distribution; and

(ii) if (i) above does not apply but the securities are actively traded over-the-counter, then, unless otherwise specified in a definitive agreement for the acquisition of the Corporation, the value shall be deemed to be the average of the closing bid prices over the 30 calendar day period ending three (3) trading days prior to the distribution; and

(iii) if there is no active public market as described in clauses (i) or (ii) above, then the value shall be the fair market value thereof, as determined in good faith by the Board.

(b) The method of valuation of securities subject to investment letter or other restrictions on free marketability shall be to make an appropriate discount from the market value determined as above in subparagraphs (a)(i), (ii) or (iii) of this subsection to reflect the approximate fair market value thereof, as determined in good faith by the Board.

### 3. Voting Rights.

3.1 Voting Generally. Each holder of shares of Series A Preferred Stock shall be entitled to the number of votes equal to the number of whole shares of Common Stock into which such shares of Series A Preferred Stock could be converted pursuant to the provisions of Section 4 at the record date for the determination of the stockholders entitled to vote on such matters or, if no such record date is established, the date such vote is taken or any written consent of stockholders is solicited. Subject to the other provisions of this Certificate of Incorporation, each holder of Series A Preferred Stock shall have full voting rights and powers equal to the voting rights and powers of the holders of Common Stock, and shall be entitled to notice of any stockholders' meeting in accordance with the bylaws of the Corporation (as in effect at the time in question) and applicable law, and shall be entitled to vote, together with the holders of Common Stock, with respect to any question upon which holders of Common Stock have the right to vote, except as may be otherwise provided by applicable law. Except as otherwise expressly provided herein or as required by law, the holders of Series A Preferred Stock shall vote together with the holders of shares of other series of Preferred Stock and the holders of Common Stock, and not as a separate series or class.

4. Conversion Rights. The outstanding shares of Series A Preferred Stock shall be convertible into Common Stock as follows:

4.1 Optional Conversion. At the option of the holder thereof, each share of Series A Preferred Stock shall be convertible, at any time or from time to time, into fully paid and nonassessable shares of Common Stock as provided herein. Each holder of Series A Preferred Stock who elects to convert the same into shares of Common Stock shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Corporation or any transfer agent for the Series A Preferred Stock or Common Stock, and shall give written notice to the Corporation at such office that such holder elects to convert the same and shall state therein the number of shares of Series A Preferred Stock being converted. Thereupon the Corporation shall



provisions hereof and prepare a certificate showing such adjustment or readjustment, and shall mail such certificate, by first class mail, postage prepaid, to each registered holder of Series A Preferred Stock at the holder's address as shown in the Corporation's books.

4.10 Fractional Shares. No fractional shares of Common Stock shall be issued upon any conversion of Series A Preferred Stock. In lieu of any fractional share to which the holder would otherwise be entitled, the Corporation shall pay the holder cash equal to the product of such fraction multiplied by the Common Stock's fair market value as determined in good faith by the Board as of the date of conversion.

4.11 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 Series A Preferred 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 Series A 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 Series A 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 purpose.

4.12 Notices. Any notice required by the provisions of these Certificate of Incorporation to be given to the holders of shares of Series A Preferred Stock shall be deemed given upon the earlier of actual receipt or deposit in the United States mail, by certified or registered mail, return receipt requested, postage prepaid, or delivery by a recognized express courier, fees prepaid, addressed to each holder of record at the address of such holder appearing on the books of the Corporation.

4.13 No Impairment. The Corporation shall not avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Corporation, but shall at all times in good faith assist in carrying out all such action as may be reasonably necessary or appropriate in order to protect the rights, preferences and privileges of the holders of Series A Preferred Stock against impairment.

5. Dividends. If the Board declares and pays any dividend on the Common Stock, such dividend shall also be declared and paid on each outstanding share of Series A Preferred Stock based on the number of whole shares of Common Stock into which such share of Series A Preferred Stock then could be converted pursuant to the provisions of subsection 4.1. Except as provided in the preceding sentence, holders of Series A Preferred Stock shall not be entitled to receive any dividends. No rights or interest shall accrue to the holders of the Series A Preferred Stock by reason of the fact that the Corporation shall fail to declare or pay dividends on the Common Stock or Series A Preferred Stock in any calendar year or any fiscal year of the Corporation, whether or not the earnings of the Corporation in any calendar year or fiscal year were sufficient to pay such dividends in whole or in part.

6. Reserved.

7. Miscellaneous.

7.1 No Reissuance of Series A Preferred Stock. No share or shares of Series A Preferred Stock acquired by the Corporation by reason of purchase, conversion or otherwise shall be reissued, and all such shares shall be cancelled, retired and eliminated from the shares which the Corporation shall be authorized to issue.

7.2 Preemptive Rights. No stockholder of the Corporation shall have a right to purchase shares of capital stock of the Corporation sold or issued by the Corporation except to the extent that such a right may from time to time be set forth in a written agreement between the Corporation and a stockholder.

7.3 Adjustments for Stock Splits, Etc. Except as otherwise required by law, wherever in this Certificate of Designation there is a reference to a specific number of shares Series A Preferred Stock, then, upon the occurrence of any Common Stock Event or Preferred Stock Event, the specific number of shares so referenced herein shall automatically be proportionally adjusted to reflect the effect on the outstanding shares of such class or series of stock by such Common Stock Event or Preferred Stock Event, as applicable.