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**United States  
Securities and Exchange Commission**

Washington, D.C. 20549

**Form 10-Q**

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

For the quarterly period ended June 30, 2006

OR

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

Commission File Number 0-27517

**GAIAM, INC.**

(Exact name of registrant as specified in its charter)

**COLORADO**

(State or other jurisdiction of  
incorporation or organization)

**84-1113527**

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

**360 INTERLOCKEN BLVD.,  
BROOMFIELD, COLORADO 80021**

(Address of principal executive offices)

**(303) 222-3600**

(Registrant's telephone number, including area code)

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer or a non-accelerated filer. See definition of "accelerated filer" and "large accelerated filer" in Rule 12b-2 of the Exchange Act.

Large Accelerated Filer  Accelerated Filer   
Non-Accelerated Filer

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

YES  NO

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date:

<u>Class</u>	<u>Shares outstanding as of August 4, 2006</u>
Class A Common Stock (\$0.001 par value)	21,304,030
Class B Common Stock (\$0.001 par value)	5,400,000

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This report may contain forward-looking statements that involve risks and uncertainties. When used in this discussion, the words "anticipate," "believe," "plan," "estimate," "expect," "strive," "future," "intend" and similar expressions as they relate to Gaiam or its management are intended to identify such forward-looking statements. Gaiam's actual results could differ materially from the results anticipated in these forward-looking statements as a result of certain factors set forth under "Management's Discussion and Analysis of Financial Condition and Results of Operations," "Quantitative and Qualitative Disclosures about Market Risk" and elsewhere in this report. Risks and uncertainties that could cause actual results to differ include, without limitation, general economic conditions, competition, loss of key personnel, pricing, brand reputation, consumer trends, acquisitions, new initiatives undertaken by Gaiam, security and information systems, legal liability for website content, merchandise supply problems, failure of third parties to provide adequate service, our reliance on centralized customer service, overstocks and merchandise returns, our reliance on a centralized fulfillment center, increases in postage and shipping costs, E-commerce trends, future Internet related taxes, control of Gaiam by its founder, fluctuations in quarterly operating results, customer interest in our products, the effect of government regulation and other risks and uncertainties included in Gaiam's filings with the Securities and Exchange Commission. We caution you that no forward-looking statement is a guarantee of future performance, and you should not place undue reliance on these forward-looking statements which reflect our management's view only as of the date of this report. We undertake no obligation to update any forward-looking information.

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GAIAM, INC.  
CONDENSED CONSOLIDATED BALANCE SHEETS  
(In thousands, except share information)

	<u>June 30,</u> <u>2006</u> (Unaudited)	<u>December 31,</u> <u>2005</u>
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 105,335	\$ 15,028
Accounts receivable, net	15,414	28,067
Inventory, less allowances	24,020	20,792
Deferred advertising costs	3,592	3,917
Deferred tax assets	4,705	3,627
Other current assets	5,726	4,838
Total current assets	<u>158,792</u>	<u>76,269</u>
Property and equipment, net	8,778	9,428

Media library, net	36,373	38,339
Goodwill and other intangibles	20,067	17,541
Non-current deferred tax assets	8,201	7,282
Notes receivable and other assets	5,392	7,242
Total assets	<u>\$ 237,603</u>	<u>\$ 156,101</u>
<b>Liabilities and stockholders' equity</b>		
Current liabilities:		
Accounts payable	\$ 15,868	\$ 25,843
Accrued liabilities	7,225	12,649
Other current liabilities	46	561
Total current liabilities	<u>23,139</u>	<u>39,053</u>
Long-term liabilities	—	1,663
Total liabilities	<u>23,139</u>	<u>40,716</u>
Minority interest	8,332	8,099
Commitments and contingencies		
Stockholders' equity:		
Class A common stock, \$.0001 par value, 150,000,000 shares authorized, 21,294,030 and 15,010,736 shares issued and outstanding at June 30, 2006 and December 31, 2005, respectively	2	1
Class B common stock, \$.0001 par value, 50,000,000 shares authorized, 5,400,000 issued and outstanding at June 30, 2006 and December 31, 2005	1	1
Additional paid-in capital	194,562	95,840
Accumulated other comprehensive income	663	264
Retained earnings	10,904	11,180
Total stockholders' equity	<u>206,132</u>	<u>107,286</u>
Total liabilities and stockholders' equity	<u>\$ 237,603</u>	<u>\$ 156,101</u>

*See accompanying notes to the interim condensed consolidated financial statements.*

GAIAM, INC.  
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS  
(Unaudited)  
(In thousands, except per share amounts)

	For the Three Months Ended June 30,	
	2006	2005
Net revenue	\$ 43,161	\$ 21,706
Cost of goods sold	<u>16,270</u>	<u>11,149</u>
Gross profit	<u>26,891</u>	<u>10,557</u>
Expenses:		
Selling and operating	26,016	9,935
Corporate, general and administration	<u>3,551</u>	<u>1,893</u>
Total expenses	<u>29,567</u>	<u>11,828</u>
Loss from operations	(2,676)	(1,271)
Other income (expense)	19	(53)
Interest income	<u>532</u>	<u>45</u>
Total other income (expense)	<u>551</u>	<u>(8)</u>
Loss before income taxes and minority interest	(2,125)	(1,279)
Income tax benefit	(804)	(532)
Minority interest in net (income) loss of consolidated subsidiaries, net of tax	<u>155</u>	<u>(19)</u>
Net loss	<u>\$ (1,166)</u>	<u>\$ (766)</u>
Net loss per share:		
Basic	\$ (0.05)	\$ (0.05)

Diluted	\$	(0.05)	\$	(0.05)
Shares used in computing net loss per share:				
Basic		23,140		14,820
Diluted		23,140		14,820

See accompanying notes to the interim condensed consolidated financial statements.

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GAIAM, INC.  
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS  
(Unaudited)  
(In thousands, except per share amounts)

	For the Six Months Ended June 30,	
	2006	2005
Net revenue	\$ 94,913	\$ 48,030
Cost of goods sold	34,860	23,724
Gross profit	<u>60,053</u>	<u>24,306</u>
Expenses:		
Selling and operating	54,922	21,625
Corporate, general and administration	6,797	3,665
Total expenses	<u>61,719</u>	<u>25,290</u>
Loss from operations	(1,666)	(984)
Other income	553	38
Interest income	575	70
Total other income	<u>1,128</u>	<u>108</u>
Loss before income taxes and minority interest	(538)	(876)
Income tax benefit	(192)	(402)
Minority interest in net (income) loss of consolidated subsidiaries, net of tax	70	(176)
Net loss	<u>\$ (276)</u>	<u>\$ (650)</u>
Net loss per share:		
Basic	\$ (0.01)	\$ (0.04)
Diluted	\$ (0.01)	\$ (0.04)
Shares used in computing net loss per share:		
Basic	21,795	14,820
Diluted	21,795	14,820

See accompanying notes to the interim condensed consolidated financial statements.

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GAIAM, INC.  
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS  
(Unaudited)  
(In thousands)

	For the Six Months Ended June 30,	
	2006	2005
<b>Operating activities</b>		
Net loss	\$ (276)	\$ (650)
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation	1,064	1,145
Amortization	2,074	802
Minority interest in consolidated subsidiaries	(70)	176
Non-cash gain from equity investment	(519)	—
Non-cash stock-based compensation	194	—
Deferred income tax expense	(211)	382

Changes in operating assets and liabilities, net of effects from acquisitions:		
Accounts receivable	13,496	5,620
Inventory	(3,026)	663
Deferred advertising costs	325	641
Other current assets	(1,788)	(150)
Other assets	(141)	(145)
Accounts payable	(10,034)	(3,882)
Accrued liabilities	(3,611)	(504)
Other current liabilities	(460)	(1,312)
Net cash (used in) provided by operating activities	<u>(2,983)</u>	<u>2,786</u>
<b>Investing activities</b>		
Purchase of property, equipment and media rights	(379)	(767)
Proceeds from sale of property and equipment	297	—
Purchase of investment	(3,548)	—
Net cash used in investing activities	<u>(3,630)</u>	<u>(767)</u>
<b>Financing activities</b>		
Proceeds from issuance of common stock, net	96,496	—
Net cash provided by financing activities	<u>96,496</u>	<u>—</u>
Effects of exchange rates on cash and cash equivalents	424	(199)
Net change in cash and cash equivalents	90,307	1,820
Cash and cash equivalents at beginning of period	15,028	10,439
Cash and cash equivalents at end of period	<u>\$ 105,335</u>	<u>\$ 12,259</u>
<b>Supplemental cash flow information</b>		
Interest paid	\$ —	\$ —
Income taxes paid	\$ 92	\$ 560

*See accompanying notes to the interim condensed consolidated financial statements*

Gaiam, Inc.  
Notes to Interim Condensed Consolidated Financial Statements  
(Unaudited)  
June 30, 2006

1. Interim Condensed Consolidated Financial Statements

Organization and Nature of Operations

Gaiam, Inc. (“Gaiam”) is a branded lifestyle media company providing a broad selection of information, media, products and services to customers who value personal development, wellness, ecological lifestyles, and responsible media. Gaiam was incorporated under the laws of the State of Colorado on July 7, 1988.

The accompanying interim condensed consolidated financial statements include the accounts of Gaiam and its subsidiaries in which Gaiam’s ownership is greater than 50% and the subsidiary is considered to be under Gaiam’s control. All material intercompany accounts and transaction balances have been eliminated in consolidation.

Preparation of Interim Condensed Consolidated Financial Statements

The interim condensed consolidated financial statements included herein have been prepared by the management of Gaiam pursuant to the rules and regulations of the United States Securities and Exchange Commission, and, in the opinion of management, contain all adjustments (consisting of only normal recurring adjustments) necessary to present fairly Gaiam’s consolidated financial position as of June 30, 2006, the interim results of operations for the three and six months ended June 30, 2006 and 2005, and cash flows for the six months ended June 30, 2006 and 2005. These interim statements have not been audited. The balance sheet as of December 31, 2005 was derived from Gaiam’s audited consolidated financial statements included in Gaiam’s annual report on Form 10-K.

The interim condensed consolidated financial statements are prepared in conformity with accounting principles generally accepted in the United States, which require management to make judgments, estimates and assumptions that affect the amounts reported in Gaiam’s consolidated financial statements and accompanying notes. The interim condensed consolidated financial statements contained herein should be read in conjunction with Gaiam’s audited financial statements, including the notes thereto, for the year ended December 31, 2005. No changes were made to our significant policies during the three and

six months ended June 30, 2006, except for the adoption of Financial Accounting Standards Board's ("FASB") Statement No. 123 — revised 2004 ("SFAS 123R"), "Share-Based Payment". See Summary of Significant Accounting Policies discussed below.

The consolidated financial position, results of operations and cash flows for the interim periods disclosed in this report are not necessarily indicative of future financial results.

#### Summary of Significant Accounting Policies

Management believes the following to be critical accounting policies whose application has a material impact on Gaiam's financial presentation, and involve a higher degree of complexity, as they require management to make judgments and estimates about matters that are inherently uncertain.

##### *Cash and Cash Equivalents*

Cash and cash equivalents include demand deposit accounts and highly liquid instruments, with maturities of three months or less at the date of purchase. The fair value of the cash and cash equivalents approximates their carrying value due to their short maturities.

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##### *Provisions for Doubtful Accounts and Returns*

Gaiam records a provision for doubtful accounts for all receivables not expected to be collected. Gaiam generally does not require collateral. Gaiam evaluates the collectibility of accounts receivable based on a combination of factors. In circumstances in which Gaiam is aware of a specific customer's inability to meet its financial obligations (e.g. bankruptcy filings), Gaiam records a specific reserve for bad debts against amounts due. For all other instances, Gaiam recognizes reserves based on historical experience and review of individual accounts outstanding.

Gaiam records a provision for product returns to be received in future periods at the time the original sale is recognized. The amount of the returns provision is based upon historical experience and future expectations.

##### *Inventory*

Inventory consists primarily of finished goods held for sale and is stated at the lower of cost (first-in, first-out method) or market. Gaiam identifies the inventory items to be written down for obsolescence based on the item's current sales status and condition. If the item is discontinued or slow moving, it is written down based on an estimate of the markdown to retail price needed to sell through its current stock level of the item.

##### *Goodwill*

Goodwill represents the excess of the purchase consideration over the fair value of assets acquired less liabilities assumed in a business acquisition. In accordance with SFAS No. 142, "Goodwill and Other Intangible Assets," goodwill is no longer amortized but is reviewed for impairment annually or more frequently if impairment indicators arise, on a reporting unit level. The fair value of a reporting unit is compared with its carrying amount, including goodwill. If the fair value of a reporting unit exceeds its carrying amount, goodwill of the reporting unit is considered not impaired.

If the carrying amount of a reporting unit exceeds its fair value, the goodwill impairment test is performed to measure the amount of impairment loss. Gaiam has allocated goodwill to two reporting units, and uses a market value method for the purposes of testing for potential impairment. The annual review requires extensive use of financial judgment and estimates. Application of alternative assumptions and definitions, such as a change in the composition of a reporting unit, could yield significantly different results.

##### *Investments*

Investments in limited liability companies in which Gaiam does have the ability to exercise significant influence or control, or in which it holds a five percent or more membership interest, are accounted for under the equity method. Investments in corporations in which Gaiam does have the ability to exercise significant influence or control, or in which it holds a twenty percent or more ownership, are also accounted for under the equity method. Under the equity method, Gaiam records its share of the income or losses of the investment by increasing or decreasing the carrying value of its investment and recording the income or expense through the consolidated statement of operations. Under the cost method of accounting, investments in private companies are carried at cost and are adjusted only for other-than-temporary declines in fair value. Investments under the cost and equity methods are included on the accompanying consolidated balance sheet in "Notes receivable and other assets".

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### Capitalized Production Costs and Media Library

Capitalized production costs include costs incurred to produce media products marketed by Gaiam to retailers and direct-mail and online customers. These costs are deferred for financial reporting purposes until the media is released, then amortized over succeeding periods on the basis of estimated sales. Historical sales statistics are the principal factor used in estimating the amortization rate. Gaiam's media library consists of titles and content purchased or acquired. At acquisition, the fair market value of the library is established and is amortized over succeeding periods on the basis of its estimated useful life.

### Stock-Based Compensation

Prior to January 1, 2006, Gaiam accounted for its stock option program under the recognition and measurement provisions of APB Opinion No. 25 ("APB 25"), *Accounting for Stock Issued to Employees*, and related Interpretations, as permitted by FASB Statement No. 123 ("SFAS 123"), *Accounting for Stock-Based Compensation*. No stock based compensation cost was recognized in the Statement of Operations for the quarter or six months ended June 30, 2005, as all options granted under the plan had an exercise price equal to the market value of the underlying common stock on the date of grant.

During the first quarter of fiscal 2006, Gaiam adopted the provisions of and accounted for stock-based compensation in accordance with SFAS 123R, which replaced SFAS 123 and supersedes APB 25. Under the fair value recognition provisions of this statement, stock-based compensation cost is measured at the grant date based on the fair value of the award and is recognized as expense on a straight-line basis over the requisite service period, which is the vesting period. Gaiam elected the modified-prospective method, under which prior periods are not revised for comparative purposes. The valuation provisions of SFAS 123R apply to new grants and to grants that were outstanding as of the effective date and are subsequently modified. Estimated compensation for grants that were outstanding as of the effective date will be recognized over the remaining service periods using the compensation cost estimated for the SFAS 123 pro forma disclosures.

The adoption of SFAS 123R did not have a material impact on Gaiam's consolidated financial position, results of operations and cash flows. See Note 4 for further information regarding stock-based compensation assumptions and expenses, including pro forma disclosures for the three and six months ended June 30, 2005 as if Gaiam had recorded stock-based compensation expense.

### Contractual Obligations

Gaiam has commitments pursuant to lease and debt agreements, but does not have any outstanding commitments pursuant to long-term debt, capital lease, or purchase obligations. The following table shows Gaiam's commitments to make future payments under operating leases (in thousands):

	<u>Total</u>	<u>&lt; 1 year</u>	<u>1-3 years</u>	<u>3-5 years</u>	<u>&gt; 5 yrs</u>
Operating lease obligations	\$ 5,693	\$ 2,990	\$ 2,203	\$ 320	\$ 180

### Off-Balance Sheet Arrangements

Gaiam does not participate in transactions that generate relationships with unconsolidated entities or financial partnerships, such as special purpose entities ("SPEs") or variable interest entities ("VIEs"), which have been established for the purpose of facilitating off-balance sheet arrangements or other limited purposes. As of June 30, 2006, Gaiam is not involved in any unconsolidated SPEs or VIEs.

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### Use of Estimates

The preparation of the consolidated financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenue and expenses and disclosure of contingent assets and liabilities at the date of the consolidated financial statements. Actual results could differ from those estimates.

### 2. Notes Receivable and Other Assets

Notes receivable and other assets as of June 30, 2006 consisted of \$2.7 million of investments, \$2.2 million in notes receivable, and \$0.5 million of other long-term assets. On January 5, 2006, Gaiam entered into an agreement with Alps Communications LLC and Life Balance Media Holdings LLC ("LIME"), to sell 19,968 Series A Preferred Units of LIME, an investment previously accounted for using the equity method. The purchase price per unit was equal to the amount Gaiam paid for its investment. Alps Communications assumed all unpaid Series A Capital Contribution commitments from Gaiam and executed a promissory note in the principal amount of \$2,250,000. After the closing of this transaction, Gaiam owns 4,876 units, or less than 4%, of LIME. This transaction resulted in a gain of \$0.5 million which is included in Other Income on the Condensed Consolidated Statements of Operations for the three and six months ended June 30, 2006. Notes receivable and

other assets as of December 31, 2005 consisted of \$6.8 million of investments and \$0.4 million of other assets.

On June 23, 2006, Gaiam purchased, for \$3.5 million, an approximate 34% ownership interest in Cinema Circle, Inc. ("CCI"), the parent company of Spiritual Cinema Circle, a subscription-based DVD film club. This investment is accounted for under the equity method and the excess of the cost of the investment over the underlying equity in the net assets of CCI, \$2.3 million, was recognized as goodwill. Subsequent to June 30, 2006, Gaiam purchased an additional 29% interest in CCI for \$3.4 million. With the purchase of the additional interest, Gaiam's ownership is approximately 63% and, therefore, commencing with the effective dates of the additional share purchases, CCI met the accounting criteria to be considered a business combination as outlined in SFAS No. 141, *Business Combinations*.

Gaiam plans to invest in its online business over the next two years to better capitalize on growing broadband subscription trends as well as to establish stronger relationships with its loyal consumer audience. This will be accomplished through the direct-to-consumer business as Gaiam continues to focus on better leveraging its' content through subscription clubs and community. The investment in CCI provides immediate content that can be offered to Gaiam's seven million customer base. The films distributed to CCI's members are meaningful inspirational and spiritual family films that compliment Gaiam's product offerings.

### 3. Stockholders' Equity

On May 24, 2006, Gaiam sold 5,000,000 shares of Class A Common Stock and on June 13, 2006 sold 690,000 shares of Class A Common Stock. The combined stock sales generated gross proceeds of \$99.6 million. During the first six months of 2006, Gaiam issued a total of 6,600 shares of Class A common stock to Gaiam's independent directors, in lieu of cash compensation, for services rendered in 2005 and 2006. In addition, for the six months ended June 30, 2006, Gaiam issued 586,694 shares of Class A common stock upon exercise of options granted under Gaiam's 1999 Long-Term Incentive Plan.

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### 4. Stock-Based Compensation

Gaiam's stock option program is a long-term retention program that is intended to attract, retain and provide incentives for talented employees, officers, and directors, and to align stockholder and employee interests. Gaiam grants options under its 1999 Long-Term Incentive Plan ("the Plan"), which provides for the granting of options to purchase up to 3 million shares of Gaiam's common stock. Both incentive stock options and non-qualified stock options may be issued under the provisions of the Plan. Employees of Gaiam and its affiliates, members of the Board of Directors, consultants and certain key advisors are eligible to participate in the plan, which terminates no later than June 1, 2009. Options granted under the Plan generally vest and become exercisable at 2% per month for the 50 months beginning in the eleventh month after date of grant. Grants generally expire seven years from the date of grant.

Gaiam uses the Black-Scholes option pricing model to determine the fair value of stock options and shares issued under the Plan. The determination of fair value stock-based payment awards on the date of grant using an option-pricing model is affected by Gaiam's stock price as well as assumptions regarding a number of complex and subjective variables. These variables include Gaiam's expected stock price volatility over the term of the awards, actual and projected employee stock option exercise behavior, risk-free interest rate and expected dividends.

Gaiam uses the actual vesting term of an option as the expected term of the option. Expected volatilities are based on historical realized volatility of Gaiam's stock. Gaiam's use of historical realized volatility is based upon the expectation that future volatility over the expected term is not likely to differ from historical results. The risk-free interest rate used in the option valuation model is based on U.S. Treasury zero-coupon issues with remaining terms similar to the expected term on the options. Gaiam does not anticipate paying any cash dividends in the foreseeable future and therefore an expected dividend yield of zero is used in the option valuation model. In accordance with SFAS No. 123R, Gaiam is required to estimate forfeitures at the time of grant and revise those estimates in subsequent periods if actual forfeitures differ from those estimates. Historical data is used to estimate pre-vesting option forfeitures and record stock-based compensation expense only for those awards that are expected to vest. All stock-based payment awards are amortized on a straight-line basis over the requisite service periods of the awards, which are generally the vesting periods.

Total stock-based compensation recognized was \$0.1 million and \$0.2 million and are shown in corporate, general, and administration expenses on Gaiam's condensed consolidated financial statements for the three and six months ended June 30, 2006, respectively.

The following table set forth the proforma amounts of net income and net income per share, for the three and six months ended June 30, 2005, that would have resulted if Gaiam had accounted for its stock-based compensation plan under the fair value recognition provisions of SFAS No. 123 (in thousands, except per share data):

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	Three Months Ended June 30, 2005	Six Months Ended June 30, 2005
Net loss as reported	\$ (766)	\$ (650)
Deduct: Total stock-based compensation expenses determined under fair value based method for all awards, net of related tax effects	(65)	(145)
Pro forma	<u>\$ (831)</u>	<u>\$ (795)</u>
Net loss per common share		
As reported	\$ (0.05)	\$ (0.04)
Pro forma	\$ (0.06)	\$ (0.05)
Fully diluted net loss per common share		
As reported	\$ (0.05)	\$ (0.04)
Pro forma	\$ (0.06)	\$ (0.05)

5. Comprehensive Income (Loss)

Gaiam's comprehensive income (loss) is comprised of net income (loss) and foreign currency translation adjustment, net of income taxes. Comprehensive income (loss), net of related tax effects, was as follows (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2006	2005	2006	2005
Net income (loss)	\$ (1,166)	\$ (766)	\$ (276)	\$ (650)
Foreign currency translation adjustment, net	314	(263)	399	(328)
Comprehensive income (loss), net of taxes	<u>\$ (852)</u>	<u>\$ (1,029)</u>	<u>\$ 123</u>	<u>\$ (978)</u>

6. Loss per Share

Basic loss per share excludes any dilutive effects of options, warrants and dilutive securities. Basic loss per share is computed using the weighted average number of common shares outstanding during the period. Diluted loss per share is computed using the weighted average number of common and common stock equivalent shares outstanding during the period. Common equivalent shares of 221 thousand and 121 thousand are excluded from the computation of diluted loss per share for the three months ended June 30, 2006 and 2005, respectively, and 290 thousand and 108 thousand common equivalent shares are excluded from the computation for the six months ended June 30, 2006 and 2005, respectively, because their effects are antidilutive.

The following table sets forth the computation of basic and diluted loss per share (in thousands, except per share data):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2006	2005	2006	2005
Numerator for basic and diluted loss per share	\$ (1,166)	\$ (766)	\$ (276)	\$ (650)
Denominator:				
Weighted average shares for basic loss per share	23,140	14,820	21,795	14,820
Effect of dilutive securities:				
Weighted average of common stock, stock options and warrants	—	—	—	—
Denominators for diluted loss per share	<u>23,140</u>	<u>14,820</u>	<u>21,795</u>	<u>14,820</u>
Net loss per share — basic	\$ (0.05)	\$ (0.05)	\$ (0.01)	\$ (0.04)
Net loss per share — diluted	\$ (0.05)	\$ (0.05)	\$ (0.01)	\$ (0.04)

7. Segment Information

Gaiam manages its business and aggregates its operational and financial information in accordance with two reportable segments. The business segment comprises sales to businesses, retailers, corporate accounts, and media outlets, while the direct to consumer segment includes catalog, print advertising, DRTV subscription, and e-commerce channels.

Although Gaiam is able to track revenue by sales channel, management, allocation of resources and analysis and reporting of expenses is solely on a combined basis, at the reportable segment level.

Contribution loss is defined as net sales, less cost of goods sold and direct expenses. Financial information for Gaiam's business segments was as follows (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2006	2005	2006	2005
Net revenue:				
Direct to consumer	\$ 27,008	\$ 11,959	\$ 53,118	\$ 25,272
Business	16,153	9,747	41,795	22,758
Consolidated net revenue	43,161	21,706	94,913	48,030
Contribution loss:				
Direct to consumer	(693)	(418)	(1,312)	(252)
Business	(1,983)	(853)	(354)	(732)
Consolidated contribution loss	(2,676)	(1,271)	(1,666)	(984)
Reconciliation of contribution loss to net loss:				
Other income (expense)	551	(8)	1,128	108
Income tax benefit	(804)	(532)	(192)	(402)
Minority interest in net (income) loss of consolidated subsidiaries, net of tax	155	(19)	70	(176)
Net loss	\$ (1,166)	\$ (766)	\$ (276)	\$ (650)

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

The following discussion and analysis of Gaiam's financial condition and results of operations should be read in conjunction with the condensed consolidated financial statements and related notes included elsewhere in this document.

### Overview and Outlook

Gaiam is a branded lifestyle media company providing a broad selection of information, media, products and services to customers who value personal development, wellness, ecological lifestyles and responsible media. Gaiam's media brand is built around its ability to develop and offer media content, products and lifestyle solutions to consumers in the Lifestyle of Health and Sustainability ("LOHAS") and the emerging Media that Matters ("MTM") markets.

Gaiam offers its customers the ability to make purchasing decisions based on these values while providing quality offerings at a price comparable to mainstream alternatives. Gaiam markets its media and products through a multi-channel approach including traditional media channels, direct to consumers via the Internet, DRTV, subscription clubs, catalog, and through national retailers and corporate accounts. As of June 30, 2006, Gaiam's media was carried by more than 61,000 retail stores in the United States alone, and it had approximately 7 million direct buyers.

Gaiam's content forms the basis of its proprietary offerings, which then drive demand for parallel product and service offerings. Gaiam's operations are vertically integrated from content creations, through product development and sourcing, to customer service and distribution. Gaiam markets its products and services across two segments, business and direct-to-consumer. Products are distributed in each of these sales segments from a single fulfillment center.

On September 13, 2005, Gaiam acquired substantially all of the assets of GoodTimes Entertainment and certain of its affiliates. GoodTimes Entertainment's assets included entertainment programming and home video products distributed through various channels, including television, theatres, retailers and the Internet. GoodTimes Entertainment's library contained wellness franchises such as The Firm and Tae Bo, children classics and theatrical releases.

During the three months ended June 30, 2006, both reportable segments experienced significant revenue growth over the second quarter of 2005, with the business segment generating revenue of \$16.2 million, and the direct-to-consumer segment generating revenue of \$27.0 million. For the six months ended June 30, 2006, the business and direct-to-consumer segments generated revenue of \$41.8 million and \$53.1 million, respectively. Gaiam expects to generate over \$200 million in annual revenues in 2006.

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### Results of Operations

The following table sets forth certain financial data as a percentage of revenue for the periods indicated:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2006	2005	2006	2005
Net revenue	100.0%	100.0%	100.0%	100.0%
Cost of goods sold	37.7%	51.4%	36.7%	49.4%
Gross profit	62.3%	48.6%	63.3%	50.6%

Expenses:				
Selling and operating	60.3%	45.8%	57.9%	45.0%
Corporate, general and administration	8.2%	8.7%	7.2%	7.6%
Total expenses	68.5%	54.5%	65.1%	52.6%
Loss from operations	-6.2%	-5.9%	-1.8%	-2.0%
Other income	1.3%	0.0%	1.2%	0.2%
Income tax benefit	-1.9%	-2.5%	-0.2%	-0.8%
Minority interest in net (income) loss of consolidated subsidiaries, net of tax	0.3%	-0.1%	0.1%	-0.4%
Net loss	-2.7%	-3.5%	-0.3%	-1.4%

#### Three months ended June 30, 2006 versus June 30, 2005

Revenue of \$43.2 million for the three months ended June 30, 2006 increased 98.8% from \$21.7 million for the three months ended June 30, 2005. Gaiam's increase in revenue was derived from the direct to consumer segment, in which revenue increased 125.8% to \$27.0 million, and the business segment, in which revenue increased 65.7% to \$16.2 million. The revenue increase reflects the sales of media titles acquired from GoodTimes Entertainment, coupled with strong performance in our direct marketing programs, continued penetration into existing retail stores, and the addition of new retail distribution outlets. During the quarter, Gaiam added distribution to 3,000 new retail doors, bringing the total number of doors in the United States to 61,000.

Gross profit, which consists of revenue less cost of sales (primarily merchandise acquisition costs and in-bound freight), increased to \$26.9 million for the second quarter of 2006 from \$10.6 million during the same period in 2005. As a percentage of revenue, gross profit for the second quarter of 2006 increased to 62.3% in 2006 from 48.6% in the second quarter of 2005. The increase was primarily due to strong sales of media and direct marketing products which carry higher margins, but also carry higher selling and operating expenses. The increased media sales have allowed Gaiam to leverage its purchasing volume to receive improved buying discounts. Gaiam also continued to benefit from the elimination of fees previously paid for third party distribution following the GoodTimes transaction.

Selling and operating expenses (which consist primarily of sales and marketing costs, commission and fulfillment expenses) increased to \$26.0 million for the three months ended June 30, 2006 as compared to \$9.9 million in the same period of 2005, primarily resulting from the GoodTimes transaction. As a percentage of revenue, selling and operating expenses increased to 60.3% in 2006 from 45.8% in 2005 reflecting GoodTimes transition costs, distribution, management, systems, and additional amortization expense associated with its media library, and a change in revenue mix toward increased media and direct marketing products which carry higher selling and operating expenses, such as merchandising fees and advertising costs.

Corporate, general and administration expenses increased to \$3.6 million for the second quarter of 2006 compared to \$1.9 million for the same 2005 period, primarily due to the Gaiam's planned investments in its business to support the increased revenue base. As a percentage of revenue, corporate, general and administration expenses decreased to 8.2% in the second quarter of 2006 from 8.7% in the comparable 2005 period, as economies of scale are achieved on the increased revenue base.

Operating loss was \$2.7 million for the three months ended June 30, 2006 compared to a loss of \$1.3 million for the three months ended June 30, 2005, primarily reflecting higher selling and operating expenses, including transition costs associated with the GoodTimes transaction, partially offset by increased gross profit margins.

Gaiam recorded \$0.6 million in other income for the three months ended June 30, 2006 compared to other expense of \$0.01 million for the second quarter of 2005. The increase in other income in 2006 primarily consisted of interest earned on the investment of the stock offering net proceeds. The share of net loss associated with minority interest was \$0.2 million during the second quarter of 2006, compared to the share of net income of \$0.02 million for the same 2005 period.

Gaiam recorded an income tax benefit of \$0.8 million for the three months ended June 30, 2006 compared to an income tax benefit of \$0.5 million for the three months ended June 30, 2005. Gaiam's consolidated effective tax rate fluctuates based upon the distribution of earnings/losses between its domestic and foreign operations.

As a result of the factors described above, Gaiam's net loss was \$1.2 million, or \$0.05 per share, for the three months ended June 30, 2006, as compared to a net loss of \$0.8 million, or \$0.05 per share, for the three months ended June 30, 2005.

#### Six months ended June 30, 2006 versus June 30, 2005

Revenue of \$94.9 million for the six months ended June 30, 2006 increased 97.6% from \$48.0 million for the six months ended June 30, 2005. Gaiam's increase in revenue was derived from the direct to consumer segment, in which revenue increased 110.2% to \$53.1 million, and the business segment, in which revenue increased 83.6% to \$41.8 million. The combination of strong internal revenue growth in both segments coupled with sales of media titles acquired from GoodTimes Entertainment primarily accounted for the increase in revenues.

Gross profit increased to \$60.1 million for the first six months of 2006 from \$24.3 million during the same period in 2005. As a percentage of revenue, gross profit for the first six months of 2006 increased to 63.3% in 2006 from 50.6% in the first six months of 2005. The increase was primarily due to strong sales of media and direct marketing products, which carry higher margins, but also carry higher selling and operating expenses. Also favorably impacting the gross margin were increased purchasing discounts associated with higher DVD sales volume and the elimination of fees previously paid for third party distribution.

Selling and operating expenses increased to \$54.9 million for the six months ended June 30, 2006 as compared to \$21.6 million in the same period of 2005, primarily resulting from the GoodTimes transaction. As a percentage of revenue, selling and operating expenses increased to 57.9 % in 2006 from 45.0% in 2005 reflecting GoodTimes transition costs, distribution, management, systems, and additional amortization expense associated with its media library, and a change in revenue mix toward increased media and direct marketing products which carry higher selling and operating expenses, such as merchandising fees and advertising costs.

Corporate, general and administration expenses increased to \$6.8 million for the first six months of 2006 compared to \$3.7 million for the same 2005 period, primarily due to the Gaiam's planned investments in its business to support the increased revenue base. As a percentage of revenue, corporate, general and administration expenses decreased to 7.2% in the first six months of 2006 from 7.6% in the comparable 2005 period, as economies of scale are achieved on the increased revenue base.

Operating loss was \$1.7 million for the six months ended June 30, 2006 compared to an operating loss of \$1.0 million for the six months ended June 30, 2005, primarily reflecting higher selling and operating expenses, partially offset by increased gross profit margins.

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Gaiam recorded \$1.1 million and \$0.1 million in other income for the six months ended June 30, 2006 and 2005, respectively. The increase in 2006 primarily consisted of the gain from the LIME transaction, \$0.5 million, and interest earned on the investment of the stock offering net proceeds, \$0.6 million. The share of net loss associated with minority interest was \$0.1 million during the first six months of 2006, compared to the share of net income of \$0.2 million for the same 2005 period.

Gaiam recorded income tax benefit of \$0.2 million for the six months ended June 30, 2006 compared to an income tax benefit of \$0.4 million for the six months ended June 30, 2005. Gaiam's consolidated effective tax rate fluctuates based upon the distribution of earnings/losses between its domestic and foreign operations.

As a result of the factors described above, Gaiam's net loss was \$0.3 million, or \$0.01 per share, for the six months ended June 30, 2006, as compared to a loss of \$0.7 million, or \$0.04 per share, for the six months ended June 30, 2005.

#### Liquidity and Capital Resources

Gaiam's capital needs arise from working capital required to fund our operations, capital expenditures related to acquisition and development of media content, development of our Internet platform and new products, acquisitions of new businesses, replacements, expansions and improvements to Gaiam's infrastructure, and future growth. These capital requirements depend on numerous factors, including the rate of market acceptance of Gaiam's product offerings, the ability to expand Gaiam's customer base, the cost of ongoing upgrades to Gaiam's product offerings, the level of expenditures for sales and marketing, the level of investment in distribution systems and facilities and other factors. The timing and amount of these capital requirements are variable and cannot accurately be predicted. Additionally, Gaiam will continue to pursue opportunities to expand its media libraries, evaluate possible investments in businesses, products and technologies, and increase its sales and marketing programs and brand promotions as needed.

Gaiam has a credit agreement with Wells Fargo, which permits borrowings of up to \$15 million based upon the collateral value of Gaiam's accounts receivable, inventory, and certain property and equipment. At June 30, 2006, Gaiam had no amounts outstanding under this agreement and complied with all of the financial covenants. The credit agreement expires on July 31, 2007. Should Gaiam choose to borrow under the credit agreement, outstanding advances would bear interest at the lower of prime rate less 50 basis points or LIBOR plus 275 basis points. Borrowings are secured by a pledge of Gaiam's assets, and the agreement contains various financial covenants, including covenants prohibiting the payment of cash dividends to Gaiam shareholders and requiring compliance with certain financial ratios.

Gaiam's operating activities used net cash of \$3.0 million for the six months ended June 30, 2006, primarily reflecting the use of funds to reduce accounts payable and accrued liabilities by \$10.0 million and \$3.6 million, respectively, increases in inventory and other current assets, including advances in media production and acquired media programming, by \$3.0 million and \$1.8 million, respectively, and other net uses of \$0.6 million. This use of funds was partially offset by cash provided from the decrease in accounts receivable of \$13.5 million and decrease in deferred advertising costs of \$0.3 million, and non-cash charges to net income of \$2.2 million. During the six months ended June 30, 2005, Gaiam's operating activities generated \$2.8 million reflecting a decrease in accounts receivable of \$5.6 million and non-cash charges to net income of \$2.2 million, partially offset by the use of funds to reduce accounts payable of \$3.9 million.

Gaiam's investing activities for the six months ended June 30, 2006 used net cash of \$3.6 million to purchase an approximate 34% interest in Cinema Circle Inc. for \$3.5 million and to acquire property, equipment and media rights for \$0.4 million, partially offset by cash provided from the sale of property and equipment for \$0.3 million. During the six months ended June 30, 2005, Gaiam's investing activities used cash of \$0.8 million for the purchase of property, equipment, and media rights.

Gaiam's financing activities provided net cash of \$96.5 million for the six months ended June 30, 2006 reflecting net cash provided by the common stock offering of \$93.0 million and the exercise of stock options during the first half of the year for \$3.5 million.

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On April 7, 2006, Gaiam filed a shelf registration statement on Form S-3 with the Securities and Exchange Commission for Class A Common Stock, par value \$.0001, with a total offering price not to exceed \$100,000,000. During May 2006, Gaiam filed an amended Form S-3 to register 5,000,000 shares of Class A Common Stock, plus additional shares to cover over-allotments, if any. On May 24, 2006, Gaiam sold 5,000,000 shares of Class A Common Stock and on June 13, 2006 sold 690,000 shares of Class A Common Stock in underwritten offerings under the registration statement. The combined stock sales generated gross proceeds of \$99.6 million.

Gaiam believes its available cash, cash expected to be generated from operations, cash generated by the sale of Class A common stock, and borrowing capabilities should be sufficient to fund its operations on both a short-term and long-term basis. However, Gaiam's projected cash needs may change as a result of acquisitions, product development, unforeseen operational difficulties or other factors.

In the normal course of our business, Gaiam investigates, evaluates and discusses acquisition, joint venture, minority investment, strategic relationship and other business combination opportunities in the LOHAS market. For any future investment, acquisition or joint venture opportunities, Gaiam may consider using then-available liquidity, issuing equity securities or incurring additional indebtedness.

#### Risk Factors

There are risks and uncertainties that could cause Gaiam's actual results to be materially different from those indicated by forward-looking statements that it makes from time to time in filings with the Securities and Exchange Commission, news releases, proxy statements, annual reports, registration statements and other written communications, as well as oral forward-looking statements made from time to time by representatives of Gaiam. These risks and uncertainties include, but are not limited to, those listed in Gaiam's Annual Report on Form 10-K for the year ended December 31, 2005. These risks and uncertainties and additional risks and uncertainties not presently known to Gaiam or that are currently deemed immaterial may cause its business, financial condition, operating results and cash flows to be materially adversely affected. Except for the historical information contained herein, the matters discussed in this analysis are forward-looking statements that involve risk and uncertainties, including, but not limited to, general economic and business conditions, competition, pricing, brand reputation, consumer trends, and other factors which are often beyond Gaiam's control. Gaiam does not undertake any obligation to update forward-looking statements except as required by law.

#### **Item 3. Quantitative and Qualitative Disclosures About Market Risk**

Gaiam is exposed to market risks, which include changes in U.S. interest rates and foreign exchange rates. Gaiam does not engage in financial transactions for trading or speculative purposes.

Any borrowings Gaiam might make under its bank credit facility would bear interest at the lower of prime rate less 50 basis points or LIBOR plus 275 basis points. Gaiam does not have any amounts outstanding under its credit facility, so any change in interest rates would not have a material impact on Gaiam's results from operations or cash flows unless Gaiam makes borrowings in the future.

Gaiam purchases a significant amount of inventory from vendors outside of the U.S. in transactions that are primarily U.S. dollar denominated transactions. Because the percentage of Gaiam's international purchases denominated in currencies other than the U.S. dollar is small, any currency risks related to these transactions are immaterial to Gaiam. A decline in the relative value of the U.S. dollar to other foreign currencies could, however, lead to increased purchasing costs. In order to mitigate this exposure, Gaiam makes virtually all of its purchase commitments in U.S. dollars.

In 2003, Gaiam purchased a 50.1% interest in Leisure Systems International Limited, a U.K. based distributor. Because Leisure Systems' revenue is primarily denominated in foreign currencies, this investment exposes Gaiam to accounting risk associated with foreign currency exchange rate fluctuations. However, Gaiam has determined that no material market risk exposure to its consolidated financial position, results of operations or cash flows existed as of June 30, 2006.

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#### **Item 4. Controls and Procedures**

##### **Evaluation of Disclosure Controls and Procedures**

Gaiam's chief executive officer and chief financial officer conducted an evaluation of the effectiveness of the design and operation of Gaiam's disclosure controls and procedures, as defined in Rules 13a-15(e) and Rule 15d-15(e) under the Exchange Act. Based upon their evaluation as of June 30, 2006, Gaiam's chief executive officer and chief financial officer have concluded that those disclosure controls and procedures are effective.

##### **Changes in Internal Control over Financial Reporting**

No changes in Gaiam's internal control over financial reporting occurred during the quarter or first six months ended June 30, 2006 that have materially affected, or are reasonably likely to materially affect, Gaiam's internal control over financial reporting.

#### **PART II. OTHER INFORMATION**

**Item 1. Legal Proceedings**

From time to time, Gaiam is involved in legal proceedings that it considers to be in the normal course of business. Gaiam does not believe that any of these proceedings will have a material adverse effect on its business.

**Item 1A. Risk Factors**

No material changes.

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

On April 28, 2006, entities formed for the benefit of certain Gaiam employees exercised options (which options were issued by Gaiam in 1999 at an exercise price of \$4.375 per share) to purchase 200,000 shares of Gaiam's Class A Common Stock. The shares were issued in reliance on the exemption from registration contained in Section 4(2) of the Securities Act as a transaction by an issuer not involving any public offering. There were no underwriters involved in connection with the sale of these securities.

**Item 3. Defaults Upon Senior Securities**

None.

**Item 4. Submission of Matters to a Vote of Security Holders.**

On June 22, 2006, Gaiam held an annual and special meeting of shareholders. The shareholders elected eight directors to serve until the next annual meeting of shareholders to be held in 2007 or until their successors are duly elected and qualified. The results of this vote follow:

Jirka Rysavy	For:	59,997,565	Withheld:	1,319,340
Lynn Powers	For:	59,955,627	Withheld:	1,361,278
James Argyropoulos	For:	61,068,480	Withheld:	248,425
Barnet M. Feinblum	For:	60,825,608	Withheld:	491,297
David Golden	For:	61,297,482	Withheld:	19,423
Barbara Mowry	For:	61,068,587	Withheld:	248,318
Ted Nark	For:	59,449,438	Withheld:	1,867,467
Paul H. Ray	For:	59,449,485	Withheld:	1,867,420

In addition, the shareholders approved a motion to amend Gaiam's 1999 Long-Term Incentive Plan in order to increase the number of shares which may be issued pursuant to the Plan by a vote of 59,586,424 in favor, 1,651,434 opposed and 79,046 abstaining, and a motion to authorize an amendment to our Articles of Incorporation to provide that any action of shareholders that would otherwise require a shareholders' meeting may be taken by the written consent of the required minimum number of shareholders without a meeting, by a vote of 56,991,794 in favor, 2,758,124 opposed and 7,870 abstaining.

**Item 5. Other Information**

On August 4, 2006, Gaiam filed an amendment to its Amended and Restated Articles of Incorporation with the Colorado Secretary of State. The amendment was approved by Gaiam shareholders at Gaiam's special meeting of shareholders described in Part II, Item 4 above. As a result of the amendment being filed, certain conforming changes in Gaiam's bylaws that were previously approved by Gaiam's Board of Directors became effective. The bylaw changes relate to the ability of Gaiam shareholders to take action by written consent without a meeting as permitted by the amendment to Gaiam's Amended and Restated Articles of Incorporation.

**Item 6. Exhibits**

a) Exhibits.

<u>Exhibit No.</u>	<u>Description</u>
3.1	Amendment to Amended and Restated Articles of Incorporation of Gaiam, Inc. (filed herewith).
3.2	Bylaws of Gaiam, Inc. (filed herewith).
10.1	Gaiam Inc. 1999 Long-Term Incentive Plan (filed herewith).
31.1	Certification of the Chief Executive Officer pursuant to Rule 13a-14(a) under the Securities Exchange Act of 1934 (filed herewith).
31.2	Certification of the Chief Financial Officer pursuant to Rule 13a-14(a) under the Securities Exchange Act of 1934 (filed herewith).

- 32.1 Certification of the Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (furnished herewith).
- 32.2 Certification of the Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (furnished herewith).

### Signatures

In accordance with the requirements of the Securities and Exchange Act, the registrant caused this report to be signed on its behalf, by the undersigned, thereunto duly authorized.

Gaiam, Inc.  
(Registrant)  
August 7, 2006

By: /s/ Jirka Rysavy  
Jirka Rysavy  
Chief Executive Officer

By: /s/ Vilia Valentine  
Vilia Valentine  
Chief Financial Officer  
(Principal Accounting Officer)

**Articles of Amendment of  
Gaiam, Inc.**

Section F of Article IV of the Amended and Restated Articles of Incorporation of the corporation is hereby amended and restated in its entirety to read as follows:

**“F. Quorum and Voting Requirements.** At all meetings of the shareholders, the holders of a majority of the votes eligible to be cast shall constitute a quorum. If a quorum is present, the affirmative vote of a majority of the votes eligible to be cast on the subject matter shall be the act of the shareholders unless the vote of a greater number or voting by groups is required by the Colorado Business Corporation Act or these Articles. Any action required or permitted by Articles 101 to 117 of the Colorado Business Corporation Act to be taken at a shareholders’ meeting may be taken without a meeting if shareholders holding shares having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all of the shares entitled to vote thereon were present and voted consent to such action in writing.”

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## GAIAM, INC.

AMENDED AND RESTATED  
BYLAWS  
INCLUDING CHANGES THROUGH AUGUST 4, 2006

## ARTICLE I

Offices and Agents

- 1. Principal Office.** The principal office of the Corporation shall be located in Broomfield, Colorado, or elsewhere within or without the State of Colorado, as may be subsequently designated by the Board of Directors. The Corporation may have other offices and places of business at such places within or without the State of Colorado as shall be determined by the directors or as the business of the Corporation may require from time to time.
- 2. Registered Office.** The registered office of the Corporation required by the Colorado Business Corporation Act must be continually maintained in the State of Colorado, and it may be, but need not be, identical with the principal office, if located in the State of Colorado. The address of the registered office of the Corporation may be changed from time to time as provided by the Colorado Business Corporation Act.
- 3. Registered Agent.** The Corporation shall maintain a registered agent in the State of Colorado as required by the Colorado Business Corporation Act. Such registered agent may be changed from time to time as provided by the Colorado Business Corporation Act.

## ARTICLE II

Shareholders Meetings

- 1. Annual Meetings.** The annual meeting of the shareholders shall be held for the purpose of electing directors and transacting such other corporate business as may come before the meeting. The date, time and place of the annual meeting shall be determined by resolution of the Board of Directors. If the election of directors is not held as provided herein at any annual meeting of the shareholders, or at any adjournment thereof, the Board of Directors shall cause the election to be held at a special meeting of the shareholders as soon thereafter as it may conveniently be held.
- 2. Special Meetings.** Unless otherwise prescribed by the Colorado Business Corporation Act, special meetings of the shareholders of the Corporation may be called at any time by the chairman of the Board of Directors, by the chief executive officer, by the president, by resolution of the Board of Directors or upon receipt of one or more written demands for a meeting, stating the purpose or purposes for which it is to be held, signed and dated by the holders of at least

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ten percent (10%) of all votes entitled to be cast on any issue proposed to be considered at the meeting. Notice of a special meeting shall include a description of the purpose or purposes for which the meeting is called.

- 3. Place of Meeting.** The annual meeting of the shareholders of the Corporation may be held at any place, either within or without the State of Colorado, as may be designated by the Board of Directors. Except as limited by the following sentence, the person or persons calling any special meeting of the shareholders may designate any place, within or without the State of Colorado, as the place for the meeting. If no designation is made or if a special meeting shall be called other than by the Board of Directors, the chairman of the Board of Directors, the chief executive officer or the president, the place of meeting shall be the principal office of the Corporation.
- 4. Notice of Meeting.** Except as otherwise provided in these Bylaws or by the Colorado Business Corporation Act, notice stating the date, time and place of the meeting shall be given no fewer than ten (10) and no more than sixty (60) days before the date of the meeting, except that if the number of authorized shares is to be increased, at least thirty (30) days' notice shall be given. Notice shall be given personally or by mail, private carrier, telephone (if reasonable under the circumstances), telegraph, teletype, electronically transmitted facsimile or other form of wire or wireless communication by or at the direction of the chief executive officer, the president, the secretary, or the officer or other person calling the meeting to each shareholder of record entitled to vote at such meeting. If mailed and if in a comprehensible form, such notice shall be deemed to be given and effective when deposited in the United States mail, addressed to the shareholder at his or her address as it appears in the Corporation's current record of shareholders, with postage prepaid. If notice is given other than by mail, and provided that the notice is in comprehensible form, the notice is given and effective on the date received by the shareholder. No notice need be sent to any shareholder if three successive notices mailed to the last known address of such shareholder have been returned as undeliverable until such time as another address for such shareholder is made known to the Corporation by such shareholder.

When a meeting is adjourned to a different date, time or place, notice need not be given of the new date, time or place if the new date, time or place is announced at the meeting before adjournment. At the adjourned meeting, the Corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than 120 days, or if a new record date is fixed for the adjourned meeting, a new notice of the adjourned meeting shall be given to each shareholder of record entitled to vote at the meeting as of the new record date.

5. **Fixing of Record Date.** The Board of Directors of the Corporation may provide that the stock transfer books shall be closed for a stated period, but not to exceed, in any case, fifty (50) days. If the stock transfer books shall be closed for the purpose of determining shareholders entitled to notice of or to vote at a meeting of shareholders such books shall be closed for at least ten (10) days immediately preceding said meeting. The Board of Directors may fix in advance a date as the record date for the purpose of determining shareholders entitled to notice of or to vote at any meeting of shareholders or any adjournment thereof, or shareholders entitled to receive payment of any dividend or in order to make a determination of shareholders for any other

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proper purpose, such date in any case to be not more than seventy (70) days before the meeting or action requiring a determination of shareholders. If no record date is fixed for the determination of shareholders entitled to notice of or to vote at a meeting of shareholders or shareholders entitled to receive payment of a dividend, the date on which notice of the meeting is mailed or the date on which the resolution of the Board of Directors declaring such dividend is adopted, as the case may be, shall be the record date for such determination of shareholders. When a determination of shareholders entitled to vote at any meeting of shareholders has been made as provided in this Section such determination shall apply to any adjournment thereof.

Notwithstanding the foregoing, the record date for determining the shareholders entitled to take action without a meeting or entitled to be given notice of action so taken shall be the date a writing upon which the action is taken is first received by the Corporation. The record date for determining shareholders entitled to demand a special meeting shall be the date of the earliest of the demands pursuant to which the meeting is called.

6. **Shareholders List.** The officer or agent having charge of the stock transfer books for share of the Corporation shall make, at least ten (10) days before each meeting of shareholders, or two business days after notice of the meeting is given and continuing through the meeting and any adjournment thereof, a complete list of the shareholders entitled to vote at such meeting (or any adjournment thereof) arranged in alphabetical order by voting groups and within each voting group by class or series, with the address of and the number of shares held by each, which list shall be kept on file at the principal office of the Corporation or at a place identified in the notice of the meeting in the city where the meeting will be held. A shareholder, his agent or attorney shall be entitled upon written demand to inspect and copy the list during regular business hours, during the period it is available for inspection, provided, (i) the shareholder has been a shareholder for at least three (3) months immediately preceding the demand or holds at least five percent (5%) of all outstanding shares of any class of shares as the date of the demand, (ii) the demand is made in good faith and for a purpose reasonably related to the demanding shareholder's interest as a shareholder, (iii) the shareholder describes with reasonable particularity the purpose and records the shareholder desires to inspect, (iv) the records are directly connected with the described purpose and (v) the shareholder pays a reasonable charge covering the costs of labor and material for such copies, not to exceed the cost of production and reproduction. Such list shall also be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any shareholder for any purpose germane to the meeting during the whole time of the meeting. The original stock transfer books shall be prima facie evidence as to who are the shareholders entitled to examine such list or transfer books or to vote at any meeting of shareholders.

7. **Notice of Business.** At any meeting of the shareholders of the Corporation, only such proper business shall be conducted as shall have been brought before the meeting (i) by or at the direction of the Board of Directors or (ii) by any shareholder of the Corporation who is a shareholder of record at the time of giving of the notice provided for in this Section 7, who shall be entitled to vote at such meeting and who complies with the notice procedures set forth in this Section 7. For business to be brought before a meeting of shareholders by a shareholder, the shareholder shall have given timely notice thereof in writing to the Secretary of the Corporation. To be timely, a shareholder's notice shall be delivered to or mailed and received at the principal

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executive office of the Corporation (i) in the case of the annual meeting of the Corporation's shareholders commencing in 2001 and thereafter (other than an annual meeting in which the date of the meeting has been changed by more than 30 days from the prior year), not less than 45 nor more than 70 days before the date on which the Corporation first mailed its proxy materials for the prior year's annual meeting of shareholders, or (ii) in the case of any other meeting of the Corporation's shareholders, not less than 50 nor more than 75 days prior to the meeting; provided, however, that in the event that less than 60 days' notice or prior public disclosure of the date of such other meeting is given or made to shareholders, notice by the shareholder to be timely must be so received not later than the close of business on the tenth day following the day on which such notice of the date of such other meeting was mailed or such public disclosure was made, whichever first occurs. Such shareholder's notice to the Secretary of the Corporation shall set forth as to each matter the shareholder proposes to bring before the meeting (i) a brief description of the business desired to be brought before the meeting, the reasons for conducting such business at the meeting and, in the event that such business includes a proposal to amend any document, including these Bylaws, the language of the proposed amendment, (ii) the name and address, as they appear on the Corporation's books, of the shareholder proposing such business, (iii) the class and number of shares of capital stock of the Corporation which are beneficially owned by such shareholder and (iv) any material interest of such shareholder in such business. Notwithstanding anything in these Bylaws to the contrary, no business shall be conducted at a meeting of the shareholders except in accordance with the procedures set forth in this Section 7. The chairman of the meeting of shareholders shall, if the facts warrant, determine and declare to the meeting that business was not properly brought before the meeting and in accordance with the provisions of these Bylaws, and if he or she should so determine, the chairman shall so declare to the meeting and any such business not properly brought before the meeting shall not be transacted. Notwithstanding the foregoing provisions of this Section 7, a shareholder shall also comply with all applicable requirements of the

Securities and Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder with respect to matters set forth in this Section 7.

**8. Proxies.** At all meetings of shareholders, a shareholder may vote in person or by proxy by signing an appointment form either personally or by his duly authorized attorney-in-fact. A shareholder may also appoint a proxy by transmitting or authorizing the transmission of a telegram, teletype, or other electronic transmission providing a written statement of the appointment to the proxy, to a proxy solicitor, proxy support service organization or other person duly authorized by the proxy to receive appointments as agent for the proxy, or to the Corporation. The transmitted appointment shall set forth or be transmitted with written evidence from which it can be determined that the shareholder transmitted or authorized the transmission of the appointment. The proxy appointment form shall be filed with the Secretary of the Corporation by or at the time of the meeting. The appointment of a proxy is effective when received by the Corporation and is valid for eleven (11) months unless a different period is expressly provided in the appointment form.

Any complete copy, including an electronically transmitted facsimile, of an appointment of a proxy may be substituted for or used in lieu of the original appointment for any purpose for which the original appointment could be used.

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Revocation of a proxy does not affect the right of the Corporation to accept the proxy's appointment unless (i) the Corporation had notice that the appointment was coupled with an interest and notice that the interest is extinguished is received by the Secretary or other officer or agent authorized to tabulate votes before the proxy exercises his authority under the appointment or (ii) other notice of the revocation of the appointment is received by the Secretary or other officer or agent authorized to tabulate votes before the proxy exercises his authority under the appointment. Other notice of revocation may, in the discretion of the Corporation, be deemed to include the appearance at a shareholders meeting of the shareholder who granted the proxy appointment and his voting in person on any matter subject to a vote at such meeting.

The death or incapacity of the shareholder appointing a proxy does not affect the right of the Corporation to accept the proxy's authority unless notice of the death or incapacity is received by the Secretary or other officer or agent authorized to tabulate votes before the proxy exercises his authority under the appointment.

The Corporation shall not be required to recognize an appointment made irrevocable if it has received a writing revoking the appointment signed by the shareholder either personally or by the shareholder's attorney-in-fact, notwithstanding that the revocation may be a breach of an obligation of the shareholder to another person not to revoke the appointment.

A transferee for value of shares subject to an irrevocable appointment may revoke the appointment if the transferee did not know of its existence when he acquired the shares and the existence of the irrevocable appointment was not noted on the certificate representing the shares.

Subject to the provisions of this Article II, Section 10 below or any express limitation on the proxy's authority appearing on the appointment form, the Corporation is entitled to accept the proxy's vote or other action as that of the shareholder making the appointment.

**9. Voting Rights.** Except as otherwise provided in the Articles of Incorporation, each outstanding share, regardless of class, shall be entitled to one vote and each fractional share is entitled to a corresponding fractional vote on each matter submitted to a vote at a meeting of shareholders.

At each election for directors every shareholder of record entitled to vote at such election shall have the right to vote in person or by proxy the number of votes to which such shareholder is entitled for as many persons as there are directors to be elected and for whose election he has a right to vote. Cumulative voting shall not be permitted for any purpose.

Shares held by another corporation, if the majority of shares entitled to vote for the election of directors of such other corporation are held by the Corporation, shall be voted at any meeting or counted in determining the total number of outstanding shares entitled to vote at any given time. Except as provided in the preceding sentence, shares standing in the name of another corporation, domestic or foreign, may be voted by such officer, agent or proxy as the Bylaws of such corporation may prescribe or, in the absence of such provision, as the Board of Directors of such corporation may determine, or in the absence of such determination, by the chief executive officer of such corporation.

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If shares having voting power stand of record in the names of two or more persons, whether fiduciaries, members of a partnership, joint tenants, tenants in common, tenants by the entirety or otherwise, or if two or more persons have the same fiduciary relationship respecting the same shares, voting with respect to the shares shall have the following effect: (i) if only one person votes, his act binds all; (ii) if two or more persons vote, but the vote is evenly split on any particular matter, each faction may vote the shares in question proportionately, or any person voting the shares of a beneficiary, if any, may apply to any court of competent jurisdiction in the State of Colorado to appoint an additional person to act with the persons voting the shares. The shares shall then be voted as determined by a majority of such persons and the person appointed by the court. If a tenancy is held in unequal interests, a majority or even split for

the purpose of this subsection shall be a majority or even split in interest, except that the effects of voting stated above shall not be applicable if the secretary of the Corporation is given written notice of alternative voting provisions and is furnished with a copy of the instrument or order wherein the alternate voting provisions are stated.

Shares held by an administrator, executor, guardian or conservator may be voted by him, either in person or by proxy, without a transfer of such shares into his name. Shares standing in the name of a trustee may be voted by him, either in person or by proxy, but no trustee shall be entitled to vote shares held by him without a transfer of such shares into his name.

Shares standing in the name of a receiver may be voted by such receiver, and shares held by or under the control of a receiver may be voted by such receiver without the transfer thereof into his name if authority so to do be contained in an appropriate order of the court by which such receiver was appointed.

**10. Corporation's Acceptance of Votes.** If the name signed on a vote, consent, waiver, proxy appointment, or proxy appointment revocation corresponds to the name of a shareholder, the Corporation, if acting in good faith, is entitled to accept the vote, consent, waiver, proxy appointment, or proxy appointment revocation and to give it effect as the act of the shareholder. If the name signed on a vote, consent, waiver, proxy appointment, or proxy appointment revocation does not correspond to the name of a shareholder, the Corporation, if acting in good faith, is nevertheless entitled to accept the vote, consent, waiver, proxy appointment, or proxy appointment revocation and to give it effect as the act of the shareholder if:

- (a) The shareholder is an entity and the name signed purports to be that of an officer or agent of the entity;
- (b) The name signed purports to be that of an administrator, executor, guardian, or conservator representing the shareholder and, if the Corporation requests, evidence of fiduciary status acceptable to the Corporation has been presented with respect to the vote, consent, waiver, proxy appointment or proxy appointment revocation;
- (c) The name signed purports to be that of a receiver or trustee in bankruptcy of the shareholder and, if the Corporation requests, evidence of this status acceptable to the

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Corporation has been presented with respect to the vote, consent, waiver, proxy appointment or proxy appointment revocation;

- (d) The name signed purports to be that of a pledgee, beneficial owner, or attorney-in-fact of the shareholder and, if the Corporation requests, evidence acceptable to the Corporation of the signatory's authority to sign for the shareholder has been presented with respect to the vote, consent, waiver, proxy appointment or proxy appointment revocation;
- (e) Two or more persons are the shareholder as co-tenants or fiduciaries and the name signed purports to be the name of at least one of the co-tenants or fiduciaries and the person signing appears to be acting on behalf of all the co-tenants or fiduciaries; or
- (f) The acceptance of the vote, consent, waiver, proxy appointment or proxy appointment revocation is otherwise proper under rules established by the Corporation that are not inconsistent with the provisions of this Section 10.

The Corporation is entitled to reject a vote, consent, waiver, proxy appointment, or proxy appointment revocation if the secretary or other officer or agent authorized to tabulate votes, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's authority to sign for the shareholder.

The Corporation and its officer or agent who accepts or rejects a vote, consent, waiver, proxy appointment or proxy appointment revocation in good faith and in accordance with the standards of this Section 10 are not liable in damages for the consequences of the acceptance or rejection.

**11. Quorum and Voting Requirements for Voting Groups.** The provisions of Section 7-107-206 of the Colorado Business Corporation Act shall govern quorums and other voting requirements for shareholders.

**12. Adjournments.** If less than a quorum of shares entitled to vote is represented at any meeting of the shareholders, a majority of the shares so represented may adjourn the meeting from time to time without further notice, for a period not to exceed one hundred twenty (120) days at any one adjournment. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally notified. Any meeting of the shareholders may adjourn from time to time until its business is completed.

**13. Action by Shareholders Without Meeting.** Any action required or permitted by Articles 101 to 117 of the Colorado Business Corporation Act to be taken at a shareholders' meeting may be taken without a meeting if shareholders holding shares having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all of the shares entitled to vote thereon were present and voted consent to such action in writing. Notice of any such action taken by written consent shall be given to all shareholders who were entitled to vote thereon but who have not consented thereto.

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14. **Meetings by Telecommunication.** Any or all of the shareholders may participate in an annual or special shareholders' meeting by, or the meeting may be conducted through the use of, any means of communication by which all persons participating in the meeting may hear each other during the meeting. A shareholder participating in a meeting by this means is deemed to be present in person at the meeting.

### ARTICLE III

#### **Board of Directors**

1. **Number, Qualifications and Term of Office.** Except as otherwise provided in the Articles of Incorporation or the Colorado Business Corporation Act, the business and affairs of the Corporation shall be managed by a Board of Directors, consisting of a number of directors set by the Board of Directors. Each director shall be a natural person of the age of eighteen years or older, but does not need to be a resident of the State of Colorado or a shareholder of the Corporation. The Board of Directors, by resolution, may increase or decrease the number of directors from time to time. Except as otherwise provided in these Bylaws, each director shall be elected at each annual meeting of shareholders and shall hold such office until the next annual meeting of shareholders and until his successor shall be elected and shall qualify. No decrease in the number of directors shall have the effect of shortening the term of any incumbent director.

2. **Performance of Duties.** Pursuant to the provisions of the Colorado Business Corporation Act, a director shall perform his duties as a director, including his duties as a member of any committee of the Board of Directors upon which he may serve, in good faith, in a manner he reasonably believes to be in the best interests of the Corporation, and with such care as an ordinarily prudent person in a like position would use under similar circumstances.

3. **Vacancies.** Any director may resign at any time by giving written notice to the chairman of the Board of Directors and to the chief executive officer, president or secretary of the Corporation. A resignation of a director is effective when the notice is received by the Corporation unless the notice specifies a later effective date. Unless otherwise specified in the notice, the acceptance of such resignation by the Corporation shall not be necessary to make it effective. Any vacancy on the Board of Directors may be filled by the affirmative vote of a majority of the remaining Board of Directors even if less than a quorum is remaining in office. A director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office. Any directorship to be filled by reason of an increase in the number of directors shall be filled by the affirmative vote of a majority of the directors then in office or by an election at an annual meeting or special meeting of shareholders called for that purpose. A director elected to fill a position resulting from an increase in the number of directors shall hold office until the next annual meeting of shareholders and until his or her successor has been elected and qualified.

4. **Removal.** The entire Board of Directors or any individual director may be removed from office without assignment of cause by the holders of a majority of the votes eligible to be cast in an election of directors.

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5. **Removal of Directors by Judicial Proceeding.** A director may be removed by the district court of the county where the principal office is located or, if the Corporation has no principal office in the State of Colorado, by the district court of the county in which its registered office is located, upon a finding by the district court that the director engaged in fraudulent or dishonest conduct or gross abuse of authority or discretion with respect to the Corporation and that removal is in the best interests of the Corporation. The judicial proceeding may be commenced either by the Corporation or by shareholders holding at least ten percent (10%) of the outstanding shares of any class.

6. **Election of Directors.** Except as provided in this Section 6 of this Article and subject to the right to elect additional directors under specified circumstances which may be granted, pursuant to the provisions of Article Four of the Articles of Incorporation of the Corporation, to the holders of any class or series of preferred stock, directors shall be elected by a plurality of the votes cast at annual meetings of shareholders, and each director so elected shall hold office until his successor is duly elected and qualified, or until his earlier resignation or removal. Directors need not be shareholders. Only persons who are nominated in accordance with the following procedures shall be eligible for election by the shareholders as directors of the Corporation. Nominations of persons for election as directors of the Corporation may be made at a meeting of shareholders (a) by or at the direction of the Board of Directors, (b) by any nominating committee or persons appointed by the Board of Directors or (c) by any shareholders of the Corporation entitled to vote for the election of directors at the meeting who complies with the notice procedures set forth in this Section 6. Such nominations, other than those made by or at the direction of the Board of Directors or any nominating committee or persons appointed by the Board of Directors, shall be made pursuant to timely notice in writing to the Secretary of the Corporation. To be timely, a shareholder's notice shall be delivered to or mailed and received at the principal executive office of the Corporation (i) in the case of the annual meeting of the Corporation's shareholders commencing in 2001 and thereafter (other than an annual meeting in which the date of the meeting has been changed by more than 30 days from the prior year), not less than 45 nor more than 70 days before the date on which the Corporation first mailed its proxy materials for the prior year's annual meeting of shareholders, or (ii) in the case of any other meeting of the Corporation's shareholders, not less than 50 nor more than 75 days prior to the meeting; provided, however, that in the event that less than 60 days' notice or prior public disclosure of the date of such other meeting is given or made to shareholders, notice by the shareholder to be timely must be so received not later than the close of business on the tenth day following the day on which such notice of the date of such other meeting was mailed or such public disclosure was made, whichever first occurs. Such shareholder's notice to the Secretary of the Corporation shall set forth (a) as to each person whom the shareholder proposes to nominate for election or reelection as a director, (i) the name, age, business address and residence address of the person, (ii) the principal occupation or employment of the person, (iii) the class and number of shares of capital stock of the corporation which are beneficially owned by the person and (iv) any other information

relating to the person that is required to be disclosed in solicitations for proxies for election of directors pursuant to Rule 14a under the Securities Exchange Act of 1934, as now or hereafter amended; and (b) as to the shareholder giving the notice (i) the name and record address of such shareholder and (ii) the class and number of shares of capital stock of the Corporation which are beneficially owned by such shareholder. The Corporation may require any proposed nominee to furnish such other information as may reasonably be required by the Corporation to determine the eligibility of such proposed

nominee to serve as a director of the Corporation. No person shall be eligible for election by the shareholders as a director of the Corporation unless nominated in accordance with the procedures set forth herein. The chairman of the meeting of the shareholders shall, if the facts warrant, determine and declare to the meeting that nomination was not made in accordance with the foregoing procedure, and if he or she should so determine, the chairman shall so declare to the meeting and the defective nomination shall be disregarded.

7. **Compensation.** By resolution of the Board of Directors, any director may be paid any one or more of the following: his expenses, if any, of attendance at meetings; a fixed sum for attendance at each meeting; a stated salary as director; or such other compensation as the Corporation and the director may reasonably agree upon. No such payment shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefor.

## ARTICLE IV

### Meetings of the Board

1. **Place of Meetings.** The regular or special meetings of the Board of Directors or of any committee designated by the Board of Directors shall be held at the principal office of the Corporation or at any other place within or without the State of Colorado that a majority of the Board of Directors or of any such committee, as the case may be, may designate from time to time by resolution.

2. **Regular Meetings.** Unless otherwise agreed to by the Board of Directors, the Board of Directors shall meet each year immediately before or after and at the same place as the annual meeting of the shareholders for the purpose of electing officers and transacting such other business as may come before the meeting. The Board of Directors or any committee designated by the Board of Directors may provide, by resolution, for the holding of additional regular meetings without other notice than such resolution.

3. **Special Meetings.** Special meetings of the Board of Directors or of any committee designated by the Board of Directors may be called at any time by the chairman of the Board, if any, by the chief executive officer, or by three or more members of the Board of Directors or of any such committee, as the case may be, provided that if any such committee consists of less than four members, then a special meeting of such committee may be called by a majority of the members thereof.

4. **Notice of Meetings.** Notice of the regular meetings of the Board of Directors or of any committee designated by the Board of Directors need not be given. Except as otherwise provided by these Bylaws or the laws of the State of Colorado, written notice of each special meeting of the Board of Directors or of any such committee setting forth the time and the place of the meeting shall be given to each director not less than one (1) day prior to the date and time fixed for the meeting. Notice of any special meeting may be either personally delivered or mailed to each director at his business address, by telephone (if reasonable under the circumstances) or by notice transmitted by telegraph, electronically transmitted facsimile or other form of wire or wireless communication. If mailed, such notice shall be deemed to be given and to be effective on

the earlier of (i) three (3) days after such notice is deposited in the United States mail properly addressed, with postage prepaid, or (ii) the date shown on the return receipt if mailed by registered or certified mail return receipt requested. If notice be given by telephone (if reasonable under the circumstances), electronically transmitted facsimile or other similar form of wire or wireless communication, such notice shall be deemed to be given and to be effective when sent, and with respect to a telegram, such notice shall be deemed to be given and to be effective when the telegram is delivered to the telegraph company. If a director has designated in writing one or more reasonable addresses or facsimile numbers for delivery of notice to him, notice sent by mail, telegraph, electronically transmitted facsimile or other form of wire or wireless communication shall not be deemed to have been given or to be effective unless sent to such addresses or facsimile numbers, as the case may be. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

5. **Waiver of Notice.** A director may waive notice of a meeting of the Board of Directors or of any committee designated by the Board of Directors either before, at, or after the meeting. Such waiver shall be in writing and signed by the director and delivered to the Corporation for filing with the corporate records, but such delivery and filing shall not be a condition to the effectiveness of the waiver. Attendance or participation of a director at a meeting waives any required notice of that meeting unless at the beginning of the meeting or promptly upon the director's arrival, the director objects to holding the meeting or transacting business at the meeting because of lack of notice or defective notice and does not thereafter vote for or assent to action taken at the meeting, or if special notice was required of a particular purpose pursuant to this Section 5, the director objects to transacting business with respect to the purpose for which such special notice was required and does not thereafter vote for or assent to action taken at the meeting with respect to such purpose.

6. **Quorum.** At meetings of the Board of Directors or of any committee designated by the Board of Directors a majority of the number of directors fixed by these Bylaws, or a majority of the members of any such committee, as the case may be, shall be necessary to constitute a quorum for the transaction of business. If the number of directors is not fixed, then a majority of the number in office immediately before the meeting begins, shall constitute a quorum. If a quorum is present, the act of the majority of directors present shall be the act of the Board of Directors or of any such committee, as the case may be, unless the act of a greater number is required by these Bylaws, the Articles of Incorporation or the Colorado Business Corporation Act.

7. **Presumption of Assent.** A director who is present at a meeting of the Board of Directors or a committee thereof when action is taken is deemed to have assented to the action taken unless:

(a) the director objects at the beginning of such meeting or promptly upon his arrival, to the holding of the meeting or the transacting of business at the meeting and does not thereafter vote for or assent to any action taken at the meeting;

(b) the director contemporaneously requests that his dissent or abstention as to any specific action taken be entered in the minutes of such meeting; or

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(c) the director causes written notice of his dissent or abstention as to any specific action to be received by the chairman of the Board, if any, or the presiding officer of such meeting before adjournment of the meeting or by the Corporation promptly after adjournment of the meeting.

The right of dissent or abstention pursuant to this Section 7 as to a specific action is not available to a director who votes in favor of the action taken.

8. **Committees.** The Board of Directors may, by a majority of the full Board of Directors, designate one (1) or more of its members to constitute an executive committee and one or more other committees, each of which shall have and may exercise all of the authority of the Board of Directors or such lesser authority as may be set forth in said resolution; except that no such committee shall have the authority of the Board of Directors to: (i) declare dividends or distributions; (ii) approve or recommend to shareholders actions or proposals required to be approved by shareholders; (iii) fill vacancies on the Board of Directors or any committee thereof; (iv) amend these Bylaws or the Articles of Incorporation; (v) approve a plan of merger not requiring shareholder approval; (vi) authorize or approve the reacquisition of shares unless pursuant to a general formula method specified by the Board of Directors; or (vii) authorize or approve the issuance or sale of, or any contract to issue or sell shares or designate the terms of a series of a class of shares and except that the Board of Directors, having acted regarding general authorization for the issuance or sale of shares or any contract therefor, may pursuant to a general formula or method specified by the Board of Directors by resolution or by adoption of a stock option or other plan, authorize a committee to fix the terms of any contract for the sale of the shares and to fix the terms upon which such shares may be issued or sold, including, without limitation, the price, the dividend rate, provisions for redemption, sinking fund, conversion, or voting or preferential rights, and provisions for other features of a class of shares or a series of a class of shares, with full power in such committee to adopt any final resolution setting forth all terms thereof and to authorize the statement of the terms of a series for filing with the Secretary of State of the State of Colorado under the Colorado Business Corporation Act. If any such delegation of the authority of the Board of Directors is made as provided herein, all references to the Board of Directors contained in these Bylaws, the Articles of Incorporation, the Colorado Business Corporation Act or any other applicable law or regulation relating to the authority so delegated shall be deemed to refer to such committee.

Neither the designation of any such committee, the delegation of authority to such committee, nor any action by such committee pursuant to its authority shall alone constitute compliance by any member of the Board of Directors, not a member of the committee in question, with his responsibility to act in good faith, in a manner he reasonably believes to be in the best interests of the Corporation, and with such care as an ordinarily prudent person in a like position would use under similar circumstances.

9. **Action by Directors without a Meeting.** Any action required or permitted be taken at a Board of Directors' meeting or a meeting of any committee thereof may be taken without a meeting if all members thereof consent to such action in writing. Action is taken under this Section 9 at the time the last director signs a writing describing the action taken, unless, before such time, a director has revoked his consent by a writing signed by the director and received by the

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chief executive officer and secretary. Action taken pursuant to this Section 9 has the same effect as action taken at a meeting of the directors or committee members and may be described as such in any document.

10. **Meetings.** One or more members of the Board of Directors or any committee designated by the Board of Directors may participate in a regular or special meeting by or conduct the meeting through the use of any means of communication by which all directors participating may hear each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

## Standards of Conduct

In discharging his duties, a director or officer is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by (i) one or more officers or employees of the Corporation whom the director or officer reasonably believes to be reliable and competent in the matters presented, (ii) legal counsel, a public accountant, or other person as to matters which the director or officer reasonably believes to be within such persons' professional or expert competence, or (iii) in the case of a director, a committee of the Board of Directors of which the director is not a member if the director reasonably believes the committee merits confidence.

A director or officer is not liable as such to the Corporation or its shareholders for any action he takes or omits to take as a director or officer, as the case may be, if, in connection with such action or omission, he performed the duties of the position in compliance with this Article V.

## ARTICLE VI

### Officers and Agents

1. **General.** The officers of the Corporation shall consist of a chairman of the Board, a chief executive officer, a president and a secretary and, in the discretion of the Board, a treasurer; in addition, one or more vice presidents, and such other officers, assistant officers, agents and employees that the Board of Directors may from time to time deem necessary may be elected by the Board of Directors or be appointed in a manner prescribed by the Board. Two or more offices may be held by the same person. Officers shall hold office until their successors are chosen and have qualified, unless they are sooner removed from office as provided in these Bylaws. All officers of the Corporation shall be natural persons of the age of eighteen years or older. Officers of the Corporation need not be residents of the State of Colorado or directors or shareholders of the Corporation.

2. **General Duties.** All officers and agents of the Corporation, as between themselves and the Corporation, shall have such authority and shall perform such duties in the management of the Corporation as may be provided in these Bylaws or as may be determined by

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resolution of the Board of Directors not inconsistent with these Bylaws. In all cases where the duties of any officer, agent or employee are not prescribed by the Bylaws or by the Board of Directors, such officer, agent or employee shall follow the orders and instructions of the chief executive officer.

3. **Vacancies.** When a vacancy occurs in one of the executive offices by reason of death, resignation or otherwise, it shall however be filled by a resolution of the Board of Directors. The officer so selected shall hold office until his successor is chosen and qualified.

4. **Salaries.** The salaries of the officers, agents and employees of the Corporation may be fixed by the Board of Directors, or by any committee designated by the Board or, in the absence of contrary resolution or action by the Board, by the chief executive officer.

5. **Resignation.** An officer may resign at any time by giving written notice of resignation to the Corporation. A resignation of an officer is effective when the notice is received by the Corporation unless the notice specifies a later effective date. If a resignation is made effective at a later date, the Board of Directors may permit the officer to remain in office until the effective date and may fill the pending vacancy before the effective date if the Board of Directors provides that the successor does not take office until the effective date, or the Board of Directors may remove the officer at any time before the effective date and may fill the resulting vacancy.

6. **Removal.** Any officer, agent or employee of this Corporation may be removed with or without cause by the Board of Directors or the chief executive officer whenever in its judgment it is in the best interests of the Corporation, without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer, agent or employee shall not, of itself, create contract rights.

7. **Chairman of the Board.** The Chairman shall preside as chairman at meetings of the shareholders and the Board of Directors. The Chairman shall, subject to the direction and supervision of the Board of Directors, be the most senior officer of the Corporation and shall have primary, general and active control of its affairs and business and general supervision of its officers, agents and employees. The Chairman shall have authority to expend Corporation funds, to incur debt on behalf of the Corporation, and to acquire and dispose of property, real and personal, tangible and intangible. The Chairman shall attend in person or by substitute appointed by him, or shall execute on behalf of the Corporation written instruments appointing a proxy or proxies to represent the Corporation at all meetings of the shareholders of any other corporation in which the Corporation shall hold any stock. He may, on behalf of the Corporation, in person or by substitute or by proxy, execute written waivers of notice and consents with respect to any such meetings. At all such meetings and otherwise, the Chairman, in person or by substitute or by proxy as aforesaid, may vote the stock so held by the Corporation and may execute written consents and other instruments with respect to such stock and may exercise any and all rights and powers incident to the ownership of said stock. The Chairman shall have custody of the treasurer's bond, if any.

8. **Chief Executive Officer.** The chief executive officer shall, subject to the direction and supervision of the Chairman, be the next most senior officer of the Corporation after



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the Chairman and shall assist the Chairman, and shall perform such duties as may be assigned to him from time to time by the Chairman. In the case of the chief executive officer's absence or inability to act the President may exercise such powers and perform such duties.

**9. President.** The president shall assist the chief executive officer, as directed by the Board of Directors or the chief executive officer, and shall perform such duties as may be assigned to him from time to time by the Board of Directors or the chief executive officer. If the office of chief executive officer is vacant, the president shall have the powers and perform the duties of chief executive officer until such vacancy is filled by the Board of Directors.

**10. Vice Presidents.** Each vice president shall have such powers and perform such duties as the Board of Directors may from time to time prescribe or as the chief executive officer may from time to time delegate to him. At the request of the chief executive officer, in the case of the president's absence or inability to act, any vice president may temporarily act in the president's place. In the case of the death of the president, or in the case of his absence or inability to act without having designated a vice president or vice presidents to act temporarily in his place, the Board of Directors, by resolution, may designate a vice president or vice presidents, to perform the duties of the president.

**11. Secretary.** The secretary shall keep or cause to be kept in books, provided for that purpose, the minutes of the meetings of the shareholders, executive committee, if any, and any other committees, and of the Board of Directors; shall see that all notices are duly given in accordance with the provisions of these Bylaws and as required by law; shall be custodian of the records and of the seal of the Corporation and see that the seal is affixed to all documents, the execution of which on behalf of the Corporation under its seal is duly authorized and in accordance with the provisions of these Bylaws; and, in general, shall perform all duties incident to the office of secretary and such other duties as may, from time to time, be assigned to him by the Board of Directors or by the president. In the absence of the secretary or his inability to act, the assistant secretaries, if any, shall act with the same powers and shall be subject to the same restrictions as are applicable to the secretary.

**12. Treasurer.** The treasurer shall have custody of corporate funds and securities. He shall keep full and accurate accounts of receipts and disbursements and shall deposit all corporate monies and other valuable effects in the name and to the credit of the Corporation in the depository or depositories of the Corporation, and shall render an account of his transactions as treasurer and of the financial condition of the Corporation to the chief executive officer, president and/or the Board of Directors upon request. Such power given to the treasurer to deposit and disburse funds shall not, however, preclude any other officer or employee of the Corporation from also depositing and disbursing funds when authorized to do so by the Board of Directors. The treasurer shall, if required by the Board of Directors, give the Corporation a bond in such amount and with such surety or sureties as may be ordered by the Board of Directors for the faithful performance of the duties of his office. The treasurer shall have such other powers and perform such other duties as may be from time to time prescribed by the Board of Directors or the chief executive officer or such other person appointed from time to time by the chief executive officer. In the absence of the treasurer or his inability to act, the assistant treasurers, if any, shall act with the same authority and shall be subject to the same restrictions as are applicable to the treasurer.

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**13. Delegation of Duties.** Whenever an officer is absent, or whenever, for any reason, the Board of Directors may deem it desirable, the Board of Directors may delegate the powers and duties of an officer to any other officer or officers or to any director or directors.

## ARTICLE VII

### Conflicts of Interests

No contract or other transaction between the Corporation and one or more of its directors, or any other corporation, partnership, association or other organization in which one or more of its directors or officers is a director or officer or is financially interested shall be either void or voidable solely for that reason or solely because such director or officer is present at or participates in the meeting of the Board of Directors or a committee thereof that authorizes, approves, or ratifies such contract or transaction or solely because their votes are counted for such purpose if:

(A) The material facts of such relationship, interest, contract or transaction are disclosed to or known by the Board of Directors or a committee thereof, that in good faith authorizes, approves, or ratifies the contract or transaction by the affirmative vote of a majority of the disinterested directors, even though the disinterested directors are less than a quorum;

(B) The material facts of such relationship, interest, contract or transaction are disclosed to or known by the shareholders entitled to vote thereon, and the contract or transaction is specifically authorized, approved or ratified in good faith by vote of the shareholders; or

(C) The contract or transaction is fair as to the Corporation.

Common or interested directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or a committee thereof which authorizes, approves or ratifies such contract or transaction.

The Board of Directors shall comply with any applicable provisions of Section 7-108-501 of the Colorado Business Corporation Act in connection with any loan or guaranty by the Corporation.

## ARTICLE VIII

### Indemnification of Officers, Directors and Others

1. **Definitions.** Unless the context of this Article VIII indicates otherwise, initially capitalized terms used herein shall have the meanings given in Section 7-109-101 of the Colorado Business Corporation Act.

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#### 2. Standards for Indemnification

A. **General.** Except as provided in Subsection 2(D) below, the Corporation shall indemnify against Liability, to the fullest extent authorized by the Colorado Business Corporation Act, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than permitted prior thereto), incurred in any Proceeding by an individual made a Party to the Proceeding because he is or was a Director of the Corporation or any subsidiary of the Corporation (an "Indemnitee") if: (a) he conducted himself in good faith; (b) he reasonably believed: (i) in the case of conduct in his Official capacity with the Corporation, that his conduct was in the Corporation's best interests; or (ii) that in all other cases, that his conduct was at least not opposed to the Corporation's best interests; and (c) in the case of any criminal proceeding, he had no reasonable cause to believe his conduct was unlawful.

B. **Employee Benefit Plans.** An Indemnitee's conduct with respect to an employee benefit plan for a purpose he reasonably believed to be in the interests of the participants in or beneficiaries of the plan is conduct that satisfies the requirements of clause (b)(ii) of paragraph 2, subsection A above. An Indemnitee's conduct with respect to an employee benefit plan for a purpose that he did not reasonably believe to be in the interests of the participants in or beneficiaries of the plan shall be deemed not to satisfy the requirements of clause (b)(ii) of paragraph 2, subsection A above.

C. **Termination of a Proceeding.** The termination of any proceeding by judgment, order, settlement, or conviction, or upon a plea of nolo contendere or its equivalent, is not of itself determinative that the Indemnitee did not meet the standard of conduct set forth in paragraph 2, subsection A above.

D. **Cases in Which Indemnification is Prohibited.** The Corporation may not indemnify an Indemnitee under paragraph 2, subsection A above, either (a) in connection with a Proceeding by or in the right of the Corporation in which the Indemnitee was adjudged liable to the Corporation; or (b) in connection with any Proceeding charging improper personal benefit to the Indemnitee, whether or not involving action in his Official capacity, in which he was adjudged liable on the basis that personal benefit was improperly received by him.

E. **Reasonable Expenses Only.** Indemnification permitted under this Section B in connection with a Proceeding by or in the right of the Corporation is limited to reasonable expenses incurred in connection with the Proceeding.

F. **Application of Indemnification Obligations.** The indemnity and prepayment obligations of the Corporation and the standards for indemnification set forth in this Article VIII shall apply in all cases, even if the conduct, act or omission in question occurred prior to the date that such indemnity and prepayment obligations were adopted by the Corporation by amendment to these Bylaws.

3. **Mandatory Indemnification.** Unless limited by the articles of incorporation, the Corporation shall be required to indemnify an Indemnitee who was wholly

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successful, on the merits or otherwise, in the defense of any Proceeding to which he was a Party because he is or was a director, against reasonable expenses incurred by him in connection with the Proceeding.

4. **Court Ordered Indemnification.** Unless otherwise provided in the articles of incorporation, an Indemnitee who is or was a Party to a Proceeding may apply for indemnification to the court conducting the Proceeding or to another court of competent jurisdiction. On receipt of an application, the court, after giving any notice the court considers necessary, may order indemnification in the following manner:

A. **Mandatory Indemnification.** If it determines the Indemnitee is entitled to mandatory indemnification under paragraph 3 above, the court shall order indemnification, in which case the court shall also order the Corporation to pay the Indemnitee's reasonable expenses incurred to obtain court-ordered indemnification.

B. **Indemnification Where Regardless of Meeting Standard of Conduct.** If it determines that the Indemnitee is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not he met the standard of conduct set

forth in paragraph 2, subsection A of this Article VIII or was adjudged liable in the circumstances described in paragraph 2, subsection D of this Article VIII, the court may order such indemnification as the court deems proper; except that the indemnification with respect to any Proceeding in which liability shall have been adjudged in the circumstances described in said paragraph 2, subsection D of this Article VIII is limited to reasonable expenses incurred in connection with the proceeding and reasonable expenses incurred to obtain court-ordered indemnification.

**5. Indemnification Procedure.**

**A. Authorization of Indemnification Required.** The Corporation may not indemnify an Indemnitee under paragraph 2, subsection A of this Article VIII unless authorized in the specific case after a determination has been made that indemnification of the Indemnitee is permissible in the circumstances because he has met the standard of conduct set forth in paragraph 2 of this Article VIII.

**B. Determination by the Board of Directors.** The determination required by paragraph 5, subsection A of this Article VIII, shall be made: (a) by the Corporation's Board of Directors by a majority vote of those present at a meeting at which a quorum is present, and only those directors who are not parties to the Proceeding shall be counted in satisfying the quorum; or (b) if a quorum cannot be obtained, by a majority vote of a committee of the Board of Directors designated by the Board, which committee shall consist of two or more directors who are not parties to the proceeding; except that directors who are parties to the proceeding may participate in the designation of directors for the committee.

**C. Determination by Body Other Than the Board of Directors.** If a quorum cannot be obtained by a majority vote of a committee of the Board of Directors designated by the Board of Directors under paragraph 5, subsection B or even if a quorum is obtained or a committee is designated, if a majority of the directors constituting such quorum or committee so

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directs, the determination required to be made by subparagraph B of this section 5 shall be made: (a) by independent legal counsel selected by a vote of the Corporation's Board of Directors or the committee in the manner specified in clauses (a) or (b) of subparagraph B of this section 5 or, if a quorum of the full Board of Directors cannot be obtained and a committee cannot be established, by independent legal counsel selected by a majority vote of the full Board; or (b) by the shareholders.

**D. Standard for Authorizing Indemnification.** Authorization of indemnification and advance of reasonable expenses shall be made in the same manner as the determination that indemnification or advance of expenses is permissible; except that, if the determination that indemnification or advance of expenses is permissible is made by independent legal counsel, authorization of indemnification and advance of expenses shall be made by the body that selected such counsel.

**6. Pre-Payment or Reimbursement of Expenses**

**A. General.** The Corporation may pay for or reimburse the reasonable expenses incurred by an Indemnitee who is a Party to a Proceeding in advance of the final disposition of the Proceeding if: (a) the Indemnitee furnishes the Corporation a written affirmation of his good-faith belief that he has met the standard of conduct described in paragraph 2, subsection A of this Article; (b) the Indemnitee furnishes the Corporation a written undertaking, executed personally or on his behalf, to repay the advance if it is ultimately determined that he did not meet such standard of conduct; and (c) a determination is made that the facts then known to those making the determination would not preclude indemnification under this Article.

**B. Undertaking.** The undertaking required by paragraph (b) of subsection A of this Section, shall be an unlimited general obligation of the Indemnitee but need not be secured and may be accepted without reference to financial ability to make repayment.

**C. Authorization of Pre-Payments.** Determinations and authorizations of payments under this Section 6 shall be made in the manner specified in paragraph 5, subsection C of this Article VIII.

**7. Expenses Incurred as a Witness.** The Corporation shall pay or reimburse Expenses incurred by an Indemnitee in connection with his appearance, or preparation for his appearance, as a witness in a Proceeding or at a deposition related to a Proceeding, at a time when he has not been made a named defendant or respondent in the Proceeding. If the Indemnitee is not an officer or Director of the Company at the time his appearance is required at a Proceeding or deposition related to a Proceeding, the Company shall pay the Indemnitee \$500.00 for each day (or part thereof) that the Indemnitee is required to attend such Proceeding or deposition.

**8. Officers, Employees, Fiduciaries and Agents** Unless otherwise provided in the articles of incorporation:

**A. Officer Indemnification.** An officer of the Corporation is entitled to mandatory indemnification under paragraph 3 of this Article VIII, and is entitled to apply for court-ordered

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indemnification under paragraph 4 of this Article VIII, in each case to the same extent as a director.

**B. Indemnification and Advancement of Expenses.** The Corporation may indemnify and advance expenses to an officer, employee, fiduciary or agent of the Corporation to the same extent as an Indemnitee; and

**C. Greater Rights of Indemnification Permitted.** The Corporation may also indemnify and advance expenses to an officer, employee, fiduciary or agent of the Corporation who is not an Indemnitee to a greater extent, not inconsistent with public policy, and if provided for by these bylaws, general or specific action of its board or shareholders, or directors.

**9. Insurance.** The Corporation may purchase and maintain insurance on behalf of a person who is or was a Director, officer, employee, fiduciary or agent of the Corporation, or who, while a Director, officer, employee, fiduciary or agent of the Corporation, is or was serving at the request of the Corporation as a director, officer, partner, trustee, employee, fiduciary or agent of another foreign or domestic corporation or other person or employee benefit plan against any liability asserted against or incurred by him in any such capacity or arising out of his status as such, whether or not the Corporation would have the power to indemnify him against such liability under the provisions of this Article VIII. Any such insurance may be procured from any insurance company designated by the Board of Directors of the Corporation, whether such insurance company is formed under the laws of Colorado or any other jurisdiction of the United States or elsewhere, including any insurance company in which the Corporation has equity or any other interest, through stock ownership or otherwise.

**10. Report to Shareholders.** Any indemnification of or advance of expenses to a Director in accordance with this Article VIII, if arising out of a proceeding by or on behalf of the Corporation, shall be reported in writing to the shareholders with or before the notice of the next shareholders' meeting. If the next shareholder action is taken without a meeting at the instigation of the Board of Directors, such notice shall be given to the shareholders at or before the time the first shareholder signs a writing consenting to such action.

**11. Governing Law.** This Article VIII shall be governed by and construed in accordance with Title 7, Article 109 of the Colorado Business Corporation Act, as amended from time to time.

**12. Non-Exclusivity of Rights.** The rights to indemnification and to the advancement of expenses conferred in this Article VIII shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, the Corporation's Articles of Amendment and Restatement, agreement, vote of shareholders or disinterested directors or otherwise. To the extent that the rights to indemnification granted by these Bylaws are inconsistent with those granted by the Corporation's Articles of Amendment and Restatement, the provisions of these Articles of Amendment and Restatement shall govern.

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## ARTICLE IX

### Share Certificates and the Transfer of Shares

**1. Certificates Representing Shares.** The shares shall be represented by certificates. Such certificates shall be in a form approved by the Board of Directors, consecutively numbered, and signed in the name of the Corporation by the chairman or vice chairman of the Board of Directors or by the chief executive officer, the president or a vice president and by the treasurer or an assistant treasurer or by the secretary or an assistant secretary, and shall be sealed with the seal of the Corporation or a facsimile thereof. Any or all of the signatures upon a certificate may be facsimiles if the certificate is countersigned by a transfer agent or registered by a registrar other than the Corporation itself or an employee of the Corporation. In case any officer who has signed such certificate shall have ceased to be such officer before such certificate is issued, it may be issued by the Corporation with the same effect as if he were such officer at the date of its issue.

**2. Issuance of Shares.** Except as provided in the Articles of Incorporation, the Board of Directors may authorize the issuance of shares for consideration consisting of any tangible, intangible property or benefit to the Corporation, including cash, promissory notes, services performed and other securities of the Corporation. The Board of Directors shall determine that the consideration received or to be received for the shares to be issued is adequate. Such determination, in the absence of fraud, is conclusive insofar as the adequacy of such consideration relates to whether the shares are validly issued, fully paid and nonassessable. The promissory note of a subscriber or an affiliate of a subscriber for shares shall not constitute consideration for the shares unless the note is negotiable and is secured by collateral other than the shares, having a fair market value at least equal to the principal amount of the note. For the purposes of this Section 2, "promissory note" means a negotiable instrument on which there is an obligation to pay independent of collateral and does not include a nonrecourse note. Unless otherwise expressly provided in the Articles of Incorporation, shares having a par value may be issued for less than the par value.

**3. Lost Certificates.** The Board of Directors may direct a new certificate to be issued in place of a certificate alleged to have been destroyed or lost if the owner makes an affidavit or affirmation of that fact and produces such evidence of loss or destruction as the Board of Directors may require. The Board, in its discretion, may as a condition precedent to the issuance of a new certificate require the owner to give the Corporation a bond in such form and amount and with such surety as it may determine as indemnity against any claim that may be made against the Corporation relating to the certificate allegedly destroyed or lost.

**4. Transfer of Shares.** Shares of the Corporation shall only be transferred on the stock transfer books of the Corporation by the holder of record thereof upon the surrender to the Corporation of the share certificates duly endorsed or accompanied by proper evidence of succession, assignment or authority to transfer and such documentary stamps as may be required by law. In that event, the surrendered certificates shall be cancelled, new certificates issued to the persons entitled to them, and the transaction recorded on the books of the Corporation.

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5. **Registered Shareholders.** The Corporation shall be entitled to treat the registered holder of any shares of the Corporation as the owner thereof for all purposes, and the Corporation shall not be bound to recognize any equitable or other claim to, or interest in, such shares or rights deriving from such shares on the part of any person other than the registered holder, including without limitation any purchaser, assignee or transferee of such shares or rights deriving from such shares, unless and until such other person becomes the registered holder of such shares, whether or not the Corporation shall have either actual or constructive notice of the claimed interest of such other person.

6. **Stock Ledger.** An appropriate stock journal and ledger shall be kept by the secretary or such registrars or transfer agents as the directors by resolution may appoint in which all transactions in the shares of stock of the Corporation shall be recorded.

7. **Notice of Restriction on Transfer.** Notice of any restriction on the transfer of the stock of the Corporation shall be placed on each certificate of stock issued.

## ARTICLE X

### Amendments

Subject to repeal or change by action of the shareholders, the Board of Directors may amend, supplement or repeal these Bylaws or adopt new Bylaws, and all such changes shall affect and be binding upon the holders of all shares heretofore as well as hereafter authorized, subscribed for or offered.

## ARTICLE XI

### Miscellaneous

1. **Gender.** Whenever required by the context, the singular shall include the plural, the plural the singular, and one gender shall include all genders.

2. **Invalid Provision.** The invalidity or unenforceability of any particular provision of these Bylaws shall not affect the other provisions herein, and these Bylaws shall be construed in all respects as if such invalid or unenforceable provision was omitted.

## GAIAM, INC.

1999 LONG-TERM INCENTIVE PLAN  
RESTATED AS OF JUNE 22, 2006

**Section 1. Purpose.** The purpose of this Plan is to advance the interests of Gaiam and its shareholders by providing incentives to certain Eligible Persons (as defined below) who contribute significantly to the strategic and long-term performance objectives and growth of the Company.

**Section 2. Definitions.** The definitions applicable to this Plan are provided in Appendix A.

**Section 3. Administration.** The Committee shall administer this Plan and shall have all the powers vested in it by the terms of this Plan, such powers to include exclusive authority to select the Eligible Persons to be granted Awards under this Plan, to determine the type, size and terms of the Award to be made to each Eligible Person selected, to modify the terms of any Award that has been granted, to determine the time when Awards will be granted, to establish performance objectives, to make any adjustments necessary or desirable as a result of the granting of Awards to Eligible Persons located outside the United States and to prescribe the form of the agreements evidencing Awards made under this Plan. The Committee is authorized to interpret this Plan and the Awards granted under this Plan, to establish, amend and rescind any rules and regulations relating to this Plan, and to make any other determinations that it deems necessary or desirable for the administration of this Plan. The Committee may correct any defect or supply any omission or reconcile any inconsistency in this Plan or in any Award in the manner and to the extent the Committee deems necessary or desirable to carry it into effect. Any decision of the Committee in the interpretation and administration of this Plan, as described this Plan, shall lie within its sole and absolute discretion and shall be final, conclusive and binding on all parties concerned. The Committee may act only by a majority of its members in office, *except* that the members thereof may authorize any one or more of their members or any officer of the Company to execute and deliver documents or to take any other ministerial action on behalf of the Committee with respect to Awards made or to be made to Participants. Notwithstanding the foregoing or any other provision of this Plan, the Committee shall not have the authority to accelerate the time or schedule of any payment in a manner which is not permitted under Code Section 409A, or to grant or amend any Award in any manner which would result in an inclusion of any amount in gross income under Code Section 409A(a)(1).

No member of the Committee and no officer of the Company shall be liable for anything done or omitted to be done by him, by any other member of the Committee or by any officer of the Company in connection with the performance of duties under this Plan, *except* for his own willful misconduct or as expressly provided by statute. In addition to all other rights of indemnification and reimbursement to which a member of the Committee and an officer of the Company may be entitled, the Company shall indemnify and hold harmless each such member or officer who was or is a party or is threatened to be made a party to any threatened, pending or completed proceeding or suit in connection with the performance of duties under this Plan against expenses (including reasonable attorneys' fees), judgments, fines, liabilities, losses and amounts paid in settlement actually and reasonably incurred by him in connection with such proceeding or suit, *except* for his own willful misconduct or as expressly provided otherwise by statute. Expenses (including reasonable attorneys' fees) incurred by a such a member or officer in defending any such proceeding or suit shall be paid by the Company in advance of the final disposition of such proceeding or suit upon receipt of a written affirmation by such member or officer of his good faith belief that he has met the standard of conduct necessary for indemnification and a written undertaking by or on behalf of such member or officer to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Company as authorized in this Section.

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**Section 4. Participation.** Consistent with the purposes of this Plan, the Committee shall have exclusive power to select the Eligible Persons who may participate in this Plan and be granted Awards under this Plan. Eligible Persons may be selected individually or by groups or categories, as determined by the Committee in its discretion.

**Section 5. Awards under this Plan.**

(a) *Types of Awards.* Awards under this Plan may include, but need not be limited to, one or more of the following types, either alone or in any combination thereof: (i) Stock Options, (ii) Stock Appreciation Rights, (iii) Restricted Stock, (iv) Performance Grants and (v) any other type of Award deemed by the Committee in its discretion to be consistent with the purposes of this Plan (including, but not limited to, Awards of or options or similar rights granted with respect to unbundled stock units or components thereof, and Awards to be made to Participants who are foreign nationals or are employed or performing services outside the United States).

(b) *Maximum Number of Shares that May be Issued.* There may be issued under this Plan (as Restricted Stock, in payment of Performance Grants, pursuant to the exercise of Stock Options or Stock Appreciation Rights or in payment of or pursuant to the exercise of such other Awards as the Committee, in its discretion, may determine) an aggregate of not more than 3,000,000 Common Shares, subject to adjustment as provided in Section 15. No Eligible Person may receive Awards under this Plan for more than 400,000 Common Shares in any one fiscal year of Gaiam, subject to adjustment as provided in Section 15. Common Shares issued pursuant to this Plan may be either authorized but unissued shares, treasury shares, reacquired shares or any combination thereof. If any Common Shares issued as Restricted Stock or otherwise subject to repurchase or forfeiture rights are reacquired by the Company pursuant to such rights or, if any Award is canceled, terminates or expires unexercised, any Common Shares that would otherwise have been issuable pursuant thereto will be available for issuance under new Awards.

(c) *Rights with Respect to Common Shares and Other Securities.* Except as provided in subsection 8(c) with respect to Awards of Restricted Stock and unless otherwise determined by the Committee in its discretion, a Participant to whom

an Award is made (and any person succeeding to such a Participant's rights pursuant to this Plan) shall have no rights as a shareholder with respect to any Common Shares or as a holder with respect to other securities, if any, issuable pursuant to any such Award until the date of the issuance of a stock certificate to him for such Common Shares or other instrument of ownership, if any. Except as provided in Section 15, no adjustment shall be made for dividends, distributions or other rights (whether ordinary or extraordinary, and whether in cash, securities, other property or other forms of consideration, or any combination thereof) for which the record date is prior to the date such stock certificate or other instrument of ownership, if any, is required to be issued based upon the date any Award was exercised. In all events, a Participant with whom an Award agreement is made to issue Common Shares in the future, shall have no rights as a shareholder with respect to Common Shares related to such agreement until issuance to him of a stock certificate representing such shares.

**Section 6. Stock Options.** The Committee may sell Purchased Options or grant other Stock Options either alone, or in conjunction with Associated Awards, either at the time of grant or by amendment thereafter; *provided* that an Incentive Stock Option may be granted only to Eligible Persons who are employees of the Company and who have Associated Awards only to the extent that such Associated Awards do not disqualify the Incentive Stock Option's status as such under the Code. Each Stock Option granted or sold under this Plan shall be evidenced by an agreement in such form as the

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Committee shall prescribe from time to time in accordance with this Plan and shall comply with the applicable terms and conditions of this Section and this Plan, and with such other terms and conditions, including, but not limited to, restrictions upon the Stock Option or the Common Shares issuable upon exercise thereof, as the Committee, in its discretion, shall establish.

(a) The exercise price of a Stock Option may be equal to or greater than the Fair Market Value of the Common Shares subject to such Stock Option at the time the Stock Option is granted, as determined by the Committee; *provided, however*, that in the case of an Incentive Stock Option granted to an employee of the Company, the exercise price shall not be less than the Fair Market Value of the Common Shares subject to such Stock Option at the time the Stock Option is granted, or if granted to a Ten Percent Employee, such exercise price shall not be less than 110% of such Fair Market Value at the time the Stock Option is granted. In no event, however, will the exercise price per share of a Stock Option be less than the par value per share of a Common Share.

(b) The Committee shall determine the number of Common Shares to be subject to each Stock Option. In the case of a Stock Option awarded in conjunction with an Associated Award, the number of Common Shares subject to an outstanding Stock Option may be reduced on an appropriate basis to the extent that the Associated Award has been exercised, paid to or otherwise received by the Participant, as determined by the Committee.

(c) Any Stock Option may be exercised during its term only at such time or times and in such installments as the Committee may establish.

(d) A Stock Option shall not be exercisable:

(i) in the case of any Incentive Stock Option granted to a Ten Percent Employee, after the expiration of five years from the date it is granted, and, in the case of any other Stock Option, after the expiration of ten years from the date it is granted; and

(ii) unless payment in full is made for the shares being acquired thereunder at the time of exercise as provided in subsection 6(i).

(e) The Committee shall determine in its discretion and specify in each agreement evidencing a Stock Option the effect, if any, the termination of the Participant's employment with or performance of services for the Company shall have on the exercisability of the Stock Option; *provided, however*, that an Incentive Stock Option shall not be exercisable at a time that is beyond the time an Incentive Stock Option may be exercised in order to qualify as such under the Code.

(f) In the case of an Incentive Stock Option, the amount of the aggregate Fair Market Value of Common Shares (determined at the time of grant of the Stock Option) with respect to which incentive stock options are exercisable for the first time by an employee of the Company during any calendar year (under all such plans of his employer corporation and its parent and subsidiary corporations) shall not exceed \$100,000 or such other amount as is specified in the Code.

(g) It is the intent of Gaiam that Nonqualified Stock Options granted under this Plan not be classified as Incentive Stock Options, that the Incentive Stock Options granted under this Plan be consistent with and contain or be deemed to contain all provisions required under Section 422 and the other appropriate provisions of the Code and any implementing regulations

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(and any successor provisions thereof), and that any ambiguities in construction shall be interpreted in order to effectuate such intent.

(h) A Purchased Option may contain such additional terms not inconsistent with this Plan, including but not limited to the circumstances under which the purchase price of such Purchased Option may be returned to the holder of the Purchased Option, as the Committee may determine in its sole discretion.

(i) For purposes of payments made to exercise Stock Options, such payment shall be made in such form (including, but not limited to, cash, Common Shares, the surrender of another outstanding Award under this Plan or any combination thereof) as the Committee may determine in its discretion; *provided, however*, that, unless the Committee determines otherwise, for purposes of making such payment in Common Shares, such shares shall be valued at their Fair Market Value on the day of exercise and shall have been held by the Participant for a period of at least six (6) months.

**Section 7. Stock Appreciation Rights.** The Committee may grant Stock Appreciation Rights either alone, or in conjunction with Associated Awards, either at the time of grant or by amendment thereafter. Each Award of Stock Appreciation Rights granted under this Plan shall be evidenced by an agreement in such form as the Committee shall prescribe from time to time in accordance with this Plan and shall comply with the applicable terms and conditions of this Section and this Plan, and with such other terms and conditions, including, but not limited to, restrictions upon the Award of Stock Appreciation Rights or the Common Shares issuable upon exercise thereof, as the Committee, in its discretion, shall establish.

(a) The Committee shall determine the number of Common Shares to be subject to each Award of Stock Appreciation Rights. In the case of an Award of Stock Appreciation Rights awarded in conjunction with an Associated Award, the number of Common Shares subject to an outstanding Award of Stock Appreciation Rights may be reduced on an appropriate basis to the extent that the Associated Award has been exercised, paid to or otherwise received by the Participant, as determined by the Committee.

(b) The Award of Stock Appreciation Rights shall not be exercisable:

(i) unless the Associated Award, if any, is at the time exercisable;

(ii) if the Associated Award is a Stock Option and the Fair Market Value per share of the Common Shares on the exercise date does not exceed the exercise price per share of such Stock Option; and

(iii) if the Associated Award is an Incentive Stock Option and the exercise of the Award of Stock Appreciation Rights would disqualify the Incentive Stock Option as such under the Code.

(c) The Committee shall determine in its discretion and specify in each agreement evidencing an Award of Stock Appreciation Rights the effect, if any, the termination of the Participant's employment with or performance of services for the Company shall have on the exercisability of the Award of Stock Appreciation Rights.

(d) An Award of Stock Appreciation Rights shall entitle the holder to exercise such Award or to surrender unexercised an Associated

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Award (or any portion of such Associated Award) to Gaiam and to receive from Gaiam in exchange thereof, without payment to Gaiam, that number of Common Shares having an aggregate value equal to (or, in the discretion of the Committee, less than) the excess of the Fair Market Value of one share, at the time of such exercise, over the exercise price, times the number of shares subject to the Award or the Associated Award, or portion thereof, that is so exercised or surrendered, as the case may be. The Committee shall be entitled in its discretion to elect to settle the obligation arising out of the exercise of a Stock Appreciation Right by the payment of cash or Other Gaiam Securities or property, or other forms of payment or any combination thereof, as determined by the Committee, equal to the aggregate value of the Common Shares it would otherwise be obligated to deliver. Any such election by the Committee shall be made as soon as practicable after the receipt by the Committee of written notice of the exercise of the Stock Appreciation Right.

(e) A Stock Appreciation Right may provide that it shall be deemed to have been exercised at the close of business on the business day preceding the expiration date of the Stock Appreciation Right or of the related Stock Option (or other Award), or such other date as specified by the Committee, if at such time such Stock Appreciation Right has a positive value. Such deemed exercise shall be settled or paid in the same manner as a regular exercise thereof as provided in subsection 7(d) of this Agreement.

**Section 8. Restricted Stock.** The Committee may grant Awards of Restricted Stock either alone, or in conjunction with Associated Awards, either at the time of grant or by amendment thereafter. Each Award of Restricted Stock under this Plan shall be evidenced by an agreement in such form as the Committee shall prescribe from time to time in accordance with this Plan and shall comply with the applicable terms and conditions of this Section and this Plan, and with such other terms and conditions as the Committee, in its discretion, shall establish.

(a) The Committee shall determine the number of Common Shares to be issued to a Participant pursuant to the Award of Restricted Stock, and the extent, if any, to which they shall be issued in exchange for cash, other consideration, or both.

(b) Until the expiration of such period as the Committee shall determine from the date on which the Award is granted and subject to such other terms and conditions as the Committee in its discretion shall establish (the "*Restricted Period*"), a Participant to whom an Award of Restricted Stock is made shall be issued, but shall not be entitled to the delivery of, a stock



certificate representing the Common Shares subject to such Award.

(c) Unless otherwise determined by the Committee in its discretion, a Participant to whom an Award of Restricted Stock has been made (and any person succeeding to such a participant's rights pursuant to this Plan) shall have, after issuance of a certificate for the number of Common Shares awarded and prior to the expiration of the Restricted Period, ownership of such Common Shares, including the right to vote such Common Shares and to receive dividends or other distributions made or paid with respect to such Common Shares (*provided* that such Common Shares, and any new, additional or different shares, or Other Gaiam Securities or property, or other forms of consideration that the Participant may be entitled to receive with respect to such Common Shares as a result of a stock split, stock dividend or any other change in the corporation or capital structure of Gaiam, shall be subject to the restrictions set forth in this Plan as determined by the Committee in its discretion), subject, however, to the options, restrictions and limitations imposed thereon pursuant to this Plan.

(d) The Committee shall determine in its discretion and specify in each agreement evidencing an Award of Restricted Stock the effect, if any, the termination of the Participant's

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employment with or performance of services for the Company during the Restricted Period shall have on such Award of Restricted Stock.

**Section 9. Performance Grants.** The Committee may grant Awards of Performance Grants either alone, or in conjunction with Associated Awards, either at the time of grant or by amendment thereafter. The Award of a Performance Grant to a Participant will entitle him to receive a specified amount determined by the Committee (the "*Actual Value*"), if the terms and conditions specified in this Plan and in the Award are satisfied. Each Award of a Performance Grant shall be subject to the applicable terms and conditions of this Section and this Plan, and to such other terms and conditions, including but not limited to, restrictions upon any cash, Common Shares, Other Gaiam Securities or property, or other forms of payment, or any combination thereof, issued with respect to the Performance Grant, as the Committee, in its discretion, shall establish, and shall be embodied in an agreement in such form and substance as is determined by the Committee.

(a) The Committee shall determine the value or range of values of a Performance Grant to be awarded to each Participant selected for an Award and whether or not such a Performance Grant is granted in conjunction with an Associated Award. As determined by the Committee, the maximum value of each Performance Grant (the "*Maximum Value*") shall be: (i) an amount fixed by the Committee at the time the Award is made or amended thereafter, (ii) an amount that varies from time to time based in whole or in part on the then current value of the Common Shares, Other Gaiam Securities or property, or other securities or property, or any combination thereof or (iii) an amount that is determinable from criteria specified by the Committee. Performance Grants may be issued in different classes or series having different names, terms and conditions. In the case of a Performance Grant awarded in conjunction with an Associated Award, the Performance Grant may be reduced on an appropriate basis to the extent that the Associated Award has been exercised, paid to or otherwise received by the Participant, as determined by the Committee.

(b) The award period ("*Award Period*") related to any Performance Grant shall be a period determined by the Committee. At the time each Award is made, the Committee shall establish performance objectives to be attained within the Award Period as the means of determining the Actual Value of such a Performance Grant. The performance objectives shall be based on such measure or measures of performance, which may include, but need not be limited to, the performance of the Participant, the Company or one or more of its divisions or units, or any combination of the foregoing, as the Committee shall determine, and may be applied on an absolute basis or be relative to industry or other indices or any combination thereof. The Actual Value of a Performance Grant shall be equal to its Maximum Value only if the performance objectives are attained in full, but the Committee shall specify the manner in which the Actual Value of Performance Grants shall be determined if the performance objectives are met in part. Such performance measures, the Actual Value or the Maximum Value, or any combination thereof, may be adjusted in any manner by the Committee in its discretion at any time and from time to time during or as soon as practicable after the Award Period, if it determines that such performance measures, the Actual Value or the Maximum Value, or any combination thereof, are not appropriate under the circumstances.

(c) The Committee shall determine in its discretion and specify in each agreement evidencing a Performance Grant the effect, if any, the termination of the Participant's employment with or performance of services for the Company during the Award Period shall have on such Performance Grant.

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(d) The Committee shall determine whether the conditions of a Performance Grant have been met and, if so, shall ascertain the Actual Value of the Performance Grant. If the Performance Grant has no Actual Value, the Award and such Performance Grant shall be deemed to have been canceled and the Associated Award, if any, may be canceled or permitted to continue in effect in accordance with its terms. If the Performance Grant has any Actual Value and:

(i) was not awarded in conjunction with an Associated Award, the Committee shall cause an amount

equal to the Actual Value of the Performance Grant earned by the Participant to be paid to him or his permitted assignee or Beneficiary; or

(ii) was awarded in conjunction with an Associated Award, the Committee shall determine, in accordance with criteria specified by the Committee (A) to cancel the Performance Grant, in which event no amount with respect thereto shall be paid to the Participant or his permitted assignee or Beneficiary, and the Associated Award may be permitted to continue in effect in accordance with its terms, (B) to pay the Actual Value of the Performance Grant to the Participant or his permitted assignee or Beneficiary as provided below, in which event the Associated Award may be canceled or (C) to pay to the Participant or his Beneficiary, the Actual Value of only a portion of the Performance Grants, in which event all or a portion of the Associated Award may be permitted to continue in effect in accordance with its terms or be canceled, as determined by the Committee.

Such determination by the Committee shall be made as promptly as practicable following the end of the Award Period or upon the earlier termination of employment or performance of services, or at such other time or times as the Committee shall determine, and shall be made pursuant to criteria specified by the Committee.

(e) Payment of any amount with respect to the Performance Grants that the Committee determines to pay as provided above shall be made by Gaiam as promptly as practicable after the end of the Award Period or at such other time or times as the Committee shall determine, and may be made in cash, Common Shares, Other Gaiam Securities or property, or other forms of payment, or any combination thereof or in such other manner, as determined by the Committee in its discretion. Notwithstanding anything in this Section to the contrary, the Committee may, in its discretion, determine and pay out the Actual Value of the Performance Grants at any time during the Award Period.

**Section 10. *Deferral of Compensation.*** The Committee shall determine whether or not an Award shall be made in conjunction with the deferral of the Participant's salary, bonus or other compensation, or any combination thereof, and whether or not such deferred amounts may be:

(a) forfeited to the Company or to other Participants or any combination thereof, under certain circumstances (which may include, but need not be limited to, certain types of termination of employment or performance of services for the Company);

(b) subject to increase or decrease in value based upon the attainment of or failure to attain, respectively, certain performance measures; and/or

(c) credited with income equivalents (which may include, but need not be limited to, interest, dividends or other rates of return) until the date or dates of payment of the Award, if any.

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**Section 11. *Deferred Payment of Awards.*** The Committee may specify that the payment of all or any portion of cash, Common Shares, Other Gaiam Securities or property, or any other form of payment, or any combination thereof, under an Award shall be deferred until a later date. Deferrals shall be for such periods or until the occurrence of such events, and upon such terms, as the Committee shall determine in its discretion, provided however, that any such deferral shall comply with the requirements of Code Section 409A. Deferred payments of Awards may be made by undertaking to make payment in the future based upon the performance of certain investment equivalents (which may include, but need not be limited to, government securities, Common Shares, other securities, property or consideration, or any combination thereof), together with such additional amounts of income equivalents (which may be compounded and may include, but need not be limited to, interest, dividends or other rates of return or any combination thereof) as may accrue thereon until the date or dates of payment, such investment equivalents and such additional amounts of income equivalents to be determined by the Committee in its discretion.

**Section 12. *Transferability of Awards.*** A Participant's rights and interest under this Plan or any Award may not be assigned or transferred, hypothecated or encumbered in whole or in part either directly or by operation of law or otherwise, including, but not by way of limitation, execution, levy, garnishment, attachment, pledge, bankruptcy or in any other manner; *provided, however*, the Committee may permit such transfer to a Permitted Transferee; and *provided, further*, that, unless otherwise permitted by the Code, any Incentive Stock Option granted pursuant to this Plan shall not be transferable other than by will, by the laws of descent and distribution, and shall be exercisable during the Participant's lifetime only by Participant or by such Permitted Transferee.

**Section 13. *Amendment or Substitution of Awards under this Plan.*** The terms of any outstanding Award under this Plan may be amended or modified from time to time by the Committee in its discretion in any manner that it deems appropriate (including, but not limited to, acceleration of the date of exercise of any Award and/or payments thereunder) if the Committee could grant such amended or modified Award under the terms of this Plan at the time of such amendment or modification; *provided* that no such amendment or modification shall adversely affect in a material manner any right of a Participant under the Award without his written consent, unless the Committee determines in its discretion that there have occurred or are about to occur significant changes in the Participant's position, duties or responsibilities, or significant changes in economic, legislative, regulatory, tax, accounting or cost/benefit conditions that are determined by the Committee in its discretion to have or to be expected to have a substantial effect on the performance of the Company, or any affiliate, division or department thereof, on this Plan or on any Award under this Plan and provided further that the Committee shall not have the authority to accelerate the time or schedule of any payment in a manner which is not permitted under Code Section 409A, or to grant or amend any Award in any manner which would result in an inclusion of any amount in gross income under Code Section 409A(a)(1). The Committee may, in its discretion, permit holders of Awards under this Plan to surrender outstanding Awards in order to

exercise or realize the rights under other Awards, or in exchange for the grant of new Awards, or require holders of Awards to surrender outstanding Awards as a condition precedent to the grant of new Awards under this Plan.

**Section 14. *Termination of a Participant.*** For all purposes under this Plan, the Committee shall determine whether a Participant has terminated employment with, or the performance of services for, the Company; *provided, however*, an absence or leave approved by the Company, to the extent permitted by applicable provisions of the Code, shall not be considered an interruption of employment or performance of services for any purpose under this Plan.

**Section 15. *Dilution and Other Adjustments.*** If any change in the outstanding Common Shares of the Company occurs by reason of any stock split of or stock dividend on the Common Shares, then,

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except as otherwise determined by the Committee, the terms of any outstanding Awards shall be equitably adjusted. If any change in the outstanding Common Shares occurs by reason of any split-up, split-off, spin-off, recapitalization, merger, consolidation, rights offering, reorganization, combination or exchange of shares, sale by the Company of all of its assets, distribution to shareholders (other than a stock dividend or a normal cash dividend on the Common Shares), or other extraordinary or unusual event (other than a stock split of the Common Stock as provided above), then the Committee may determine, in its discretion, to terminate all outstanding Awards immediately prior to the consummation of any such event, or make an equitable adjustment in the terms of any outstanding Award and/or the number of Common Shares available for Awards. Any such termination or adjustment made by the Committee and shall be final, conclusive and binding for all purposes of the Plan. Unless otherwise provided by the Committee, all outstanding Awards shall terminate immediately prior to the consummation of any dissolution or liquidation of the Company.

**Section 16. *Designation of Beneficiary by Participant.*** A Participant may name a beneficiary to receive any payment to which he may be entitled with respect to any Award under this Plan in the event of his death, on a written form to be provided by and filed with the Committee, and in a manner determined by the Committee in its discretion (a "***Beneficiary***"). The Committee reserves the right to review and approve Beneficiary designations. A Participant may change his Beneficiary from time to time in the same manner, unless such Participant has made an irrevocable designation. Any designation of a Beneficiary under this Plan (to the extent it is valid and enforceable under applicable law) shall be controlling over any other disposition, testamentary or otherwise, as determined by the Committee in its discretion. If no designated Beneficiary survives the Participant and is living on the date on which any amount becomes payable to such a Participant's Beneficiary, such payment will be made to the legal representatives of the Participant's estate, and the term "***Beneficiary***" as used in this Plan shall be deemed to include such person or persons. If there are any questions as to the legal right of any Beneficiary to receive a distribution under this Plan, the Committee in its discretion may determine that the amount in question be paid to the legal representatives of the estate of the Participant, in which event the Company, the Board, the Committee, the Designated Administrator (if any), and the members thereof, will have no further liability to anyone with respect to such amount.

**Section 17. *Financial Assistance.*** If the Committee determines that such action is advisable, the Company may assist any Participant in obtaining financing from the Company (or under any program of the Company approved pursuant to applicable law), or from a bank or other third party, on such terms as are determined by the Committee, and in such amount as is required to accomplish the purposes of this Plan, including, but not limited to, to permit the exercise of an Award, the participation therein, and/or the payment of any taxes with respect thereto. Such assistance may take any form that the Committee deems appropriate, including, but not limited to, a direct loan from the Company, a guarantee of the obligation by the Company or the maintenance by the Company of deposits with such bank or third party.

**Section 18. *Miscellaneous Provisions.***

- (a) Any proceeds from Awards shall constitute general funds of Gaiam.
- (b) No fractional shares may be delivered under an Award, but in lieu thereof a cash or other adjustment may be made as determined by the Committee in its discretion.
- (c) No Eligible Person or other person shall have any claim or right to be granted an Award under this Plan. Determinations made by the Committee under this Plan need not be uniform and may be made selectively among Eligible Persons under this Plan, whether or not such Eligible Persons are similarly situated. Neither this Plan nor any action taken hereunder shall be construed as giving any Eligible Person any right to continue to be employed by or perform

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services for the Company, and the right to terminate the employment of or performance of services by Eligible Persons at any time and for any reason is specifically reserved.

- (d) No Participant or other person shall have any right with respect to this Plan, the Common Shares reserved for issuance under this Plan or in any Award, contingent or otherwise, until written evidence of the Award shall have been delivered to the recipient and all the terms, conditions and provisions of this Plan and the Award applicable to such recipient (and each person claiming under or through him) have been met.

(e) No Common Shares, Other Gaiam Securities or property, other securities or property or other forms of payment shall be issued hereunder with respect to any Award unless counsel for Gaiam shall be satisfied that such issuance will be in compliance with applicable law and any applicable rules of any stock exchange or other market quotation system on which Common Shares are listed.

(f) It is the intent of Gaiam that this Plan comply in all respects with Rule 16b-3 and Section 162(m) with respect to Awards granted to executive officers of Gaiam, that any ambiguities or inconsistencies in construction of this Plan be interpreted to give effect to such intention and that if any provision of this Plan is found not to be in compliance with Rule 16b-3 or Section 162(m), such provision shall be deemed null and void with respect to Awards granted to executive officers of Gaiam to the extent required to permit such Awards to comply with Rule 16b-3 and Section 162(m). It is also the intent of Gaiam that this Plan comply in all respects with the provisions of the Code providing favorable treatment to Incentive Stock Options, that any ambiguities or inconsistencies in construction of this Plan be interpreted to give effect to such intention and that if any provision of this Plan is found not to be in compliance with the Incentive Stock Option provisions of the Code, such provision shall be deemed null and void with respect to Incentive Stock Options granted to employees of the Company to the extent required to permit such Incentive Stock Options to receive favorable treatment under the Code.

It is the intent of Gaiam that this Plan comply in all respects with any applicable provisions of Code Section 409A with respect to Awards granted under this plan and any amendment or revision of such Awards, that any ambiguities or inconsistencies in construction of this Plan be interpreted to give effect to such intention and that if any provision of this Plan is found not to be in compliance with any applicable provisions of Code Section 409A such Plan provision shall be deemed null and void to the extent required to permit such Awards to comply with any applicable provisions of Code Section 409A. Specifically, the Committee shall not have the authority to accelerate the time or schedule of any payment in a manner which is not permitted under Code section 409A or the regulations issued thereunder, or to grant or amend any Award in any manner which would result in an inclusion of any amount in gross income under Code Section 409A(a)(1).

(g) The Company shall have the right to deduct from any payment made under this Plan any federal, state, local or foreign income or other taxes required by law to be withheld with respect to such payment. It shall be a condition to the obligation of Gaiam to issue Common Shares, Other Gaiam Securities or property, other securities or property, or other forms of payment, or any combination thereof, upon exercise, settlement or payment of any Award under this Plan, that the Participant (or any Beneficiary or person entitled to act) pay to Gaiam, upon its demand, such amount as may be required by the Company for the purpose of satisfying any liability to withhold federal, state, local or foreign income or other taxes. If the amount requested is not paid, Gaiam may refuse to issue Common Shares, Other Gaiam Securities or property, other securities or property, or other forms of payment, or any combination thereof.

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Notwithstanding anything in this Plan to the contrary, the Committee may, in its discretion, permit an Eligible Person (or any Beneficiary or person entitled to act) to elect to pay a portion or all of the amount requested by the Company for such taxes with respect to such Award, at such time and in such manner as the Committee shall deem to be appropriate (including, but not limited to, by authorizing Gaiam to withhold, or agreeing to surrender to Gaiam on or about the date such tax liability is determinable, Common Shares, Other Gaiam Securities or property, other securities or property, or other forms of payment, or any combination thereof, owned by such person or a portion of such forms of payment that would otherwise be distributed, or have been distributed, as the case may be, pursuant to such Award to such person, having a Fair Market Value equal to the amount of such taxes).

(h) The expenses of this Plan shall be borne by the Company; *provided, however*, the Company may recover from a Participant or his Beneficiary, heirs or assigns any and all damages, fees, expenses and costs incurred by the Company arising out of any actions taken by a Participant in breach of this Plan or any agreement evidencing such Participant's Award.

(i) This Plan shall be unfunded. The Company shall not be required to establish any special or separate fund or to make any other segregation of assets to assure the payment of any Award under this Plan, and rights to the payment of Awards shall be no greater than the rights of the Company's general creditors.

(j) By accepting any Award or other benefit under this Plan, each Participant and each person claiming under or through him shall be conclusively deemed to have indicated his acceptance and ratification of, and consent to, any action taken under this Plan by the Company, the Board, the Committee or the Designated Administrator (if applicable).

(k) The appropriate officers of the Company shall cause to be filed any reports, returns or other information regarding Awards hereunder of any Common Shares issued pursuant hereto as may be required by applicable law and any applicable rules of any stock exchange or other market quotation system on which Common Shares are listed.

(l) The validity, construction, interpretation, administration and effect of this Plan, and of its rules and regulations, and rights relating to this Plan and to Awards granted under this Plan, shall be governed by the substantive laws, but not the choice of law rules, of the State of Colorado.

(m) Records of the Company shall be conclusive for all purposes under this Plan or any Award, unless determined by the Committee to be incorrect.

(n) If any provision of this Plan or any Award is held to be illegal or invalid for any reason, the illegality or invalidity shall not affect the remaining provisions of this Plan or any Award, but such provision shall be fully severable, and this Plan or Award, as

applicable, shall be construed and enforced as if the illegal or invalid provision had never been included in this Plan or Award, as applicable.

(o) The terms of this Plan shall govern all Awards under this Plan and in no event shall the Committee have the power to grant any Award under this Plan that is contrary to any of the provisions of this Plan.

(p) For purposes of interpretation of this Plan, the masculine pronoun includes the feminine and the singular includes the plural wherever appropriate.

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**Section 19. Plan Amendment or Suspension.** This Plan may be amended or suspended in whole or in part at any time from time to time by the Board. No amendment of this Plan shall adversely affect in a material manner any right of any Participant with respect to any Award previously granted without such Participant's written consent, except as permitted under Section 13.

**Section 20. Plan Termination.** This Plan shall terminate upon the earlier of the following dates or events to occur:

(a) upon the adoption of a resolution of the Board terminating this Plan; or

(b) the tenth anniversary of the Effective Date; *provided, however*, that the Board may, prior to such date, extend the term of this Plan for an additional period of up to five years for the grant of Awards other than Incentive Stock Options. No termination of this Plan shall materially alter or impair any of the rights or obligations of any person, without his consent, under any Award previously granted under this Plan, *except* that subsequent to termination of this Plan, the Committee may make amendments or modifications permitted under Section 13.

**Section 21. Effective Date.** This Plan shall be effective, and Awards may be granted under this Plan, on or after the Effective Date.

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## APPENDIX A

The following terms shall have the meaning indicated:

(a) "**Actual Value**" has the meaning set forth in Section 9.

(b) "**Associated Award**" shall mean an Award granted concurrently or subsequently in conjunction with another Award.

(c) "**Award**" shall mean an award of rights to an Eligible Person under this Plan.

(d) "**Award Period**" has the meaning set forth in subsection 9(b).

(e) "**Beneficiary**" has the meaning set forth in Section 16.

(f) "**Board**" shall mean the board of directors of Gaiam.

(g) "**Code**" shall mean the Internal Revenue Code of 1986, as it now exists or may be amended from time to time, and the rules and regulations promulgated thereunder, as they may exist or may be amended from time to time.

(h) "**Committee**" shall mean the person or persons responsible for administering the Plan. The Board shall constitute the Committee until the Board appoints a Board Committee, after which time the Board Committee shall constitute the Committee, provided, however, that at any time the Board may designate itself as the Committee or designate itself to administer certain of the Committee's authority under the Plan, including administering certain Awards under the Plan. The Board or the Board Committee may designate a Designated Administrator to constitute the Committee or to administer certain of the Committee's authority under the Plan, including administering certain Awards under the Plan, subject to the right of the Board or the Board Committee, as applicable, to revoke its designation at any time and to make such designation on such terms and conditions as it may determine in its discretion. For purposes of this definition, the "**Board Committee**" shall mean a committee of the Board designated by the Board to administer this Plan. Except as otherwise determined by the Board, the Board Committee (i) shall be comprised of not fewer than two directors, (ii) shall meet any applicable requirements under Rule 16b-3, including any requirement that the Board Committee consist of "nonemployee directors" (as defined in Rule 16b-3), (iii) shall meet any applicable requirements under Section 162(m), including any requirement that the Board Committee consist of "outside directors" (as defined in Treasury Regulation §1.162-27(e)(3)(i) or any successor regulation), and (iv) shall meet any applicable requirements of any stock exchange or other market quotation system on which Common Shares are listed. For purposes of this definition, the "**Designated Administrator**" shall mean a person or person designated by the Board or a Board Committee to act as a Designated

Administrator pursuant to this Plan. Except as otherwise determined by the Board, a Designated Administrator shall only be appointed if Rule 16b-3 permits such appointment and the exercise of any authority without adversely affecting the ability of Awards to officers of Gaiam to comply with the conditions for Rule 16b-3 or Section 162(m).

(i) “*Company*” shall mean Gaiam and any parent, subsidiary or affiliate of Gaiam.

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(j) “*Common Shares*” shall mean shares of Class A common stock, par value \$0.0001 per share, of Gaiam and stock of any other class into which such shares may thereafter be changed.

(k) “*Effective Date*” shall June 1, 1999.

(l) “*Eligible Person(s)*” shall mean those persons who are full or part-time employees of the Company or other individuals who perform services for the Company, including, without limitation, directors who are not employees of the Company and consultants and independent contractors who perform services for the Company.

(m) “*Exchange Act*” shall mean the Securities Exchange Act of 1934, as it now exists or may be amended from time to time, and the rules promulgated thereunder, as they may exist or may be amended from time to time.

(n) “*Fair Market Value*” shall mean such value rounded up to the nearest cent as determined by the Committee in accordance with applicable law.

(o) “*Incentive Stock Option*” shall mean a Stock Option that is an incentive stock option as defined in Section 422 of the Code. Incentive Stock Options are subject, in part, to the terms, conditions and restrictions described in Section 6.

(p) “*Maximum Value*” has the meaning set forth in subsection 9(a).

(q) “*Gaiam*” shall mean Gaiam, Inc., a Colorado corporation.

(r) “*Nonqualified Stock Option*” shall mean a Stock Option that is not an incentive stock option as defined in Section 422 of the Code. Nonqualified Stock Options are subject, in part, to the terms, conditions and restrictions described in Section 6.

(s) “*Other Gaiam Securities*” shall mean Gaiam securities (which may include, but need not be limited to, unbundled stock units or components thereof, debentures, preferred stock, warrants, securities convertible into Common Shares or other property) other than Common Shares.

(t) “*Participant*” shall mean an Eligible Person to whom an Award has been granted under this Plan.

(u) “*Performance Grant*” shall mean an Award subject, in part, to the terms, conditions and restrictions described in Section 9, pursuant to which the recipient may become entitled to receive cash, Common Shares, Other Gaiam Securities or property, or other forms of payment, or any combination thereof, as determined by the Committee.

(v) “*Permitted Transferee*” means (i) any person defined as an employee in the Instructions to Registration Statement Form S-8 promulgated by the Securities and Exchange Commission, as such Form may be amended from time to time, which persons include, as of the date of adoption of the Plan, (a) executors, administrators or beneficiaries of the estates of deceased Participants, guardians or members of a committee for incompetent former Participants, or similar persons duly authorized by law to administer the estate or assets of former Participants, and (b) Participants’ family members who acquire Awards from the Participant other than for value, through a gift or a domestic relations order and (ii) any trust established for the benefit of

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any person described in clause (i). For purposes of this definition, “*family member*” includes any child, stepchild, grandchild, parent, stepparent, grandparent, spouse, former spouse, sibling, niece, nephew, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, including adoptive relationships, any person sharing the Participant’s household (other than a tenant or employee), a trust in which these persons have more than fifty percent of the beneficial interest, a foundation in which these persons (or the Participant) control the management of assets, and any other entity in which these persons (or the Participant) own more than fifty percent of the voting interests. For purposes of this definition, neither (i) a transfer under a domestic relations order in settlement of marital property rights; nor (ii) a transfer to an entity in which more than fifty percent of the voting interests are owned by family members (or the Participant) in exchange for an interest in that entity is considered a transfer for “*value*”.

(w) “*Plan*” shall mean this Gaiam, Inc. 1999 Long-Term Incentive Plan.

(x) “**Purchased Option**” shall mean a Stock Option that is sold to an Eligible Person at a price determined by the Committee. Purchased Options are subject, in part, to the terms, conditions and restrictions described in Section 6.

(y) “**Restricted Period**” has the meaning set forth in subsection 8(b).

(z) “**Restricted Stock**” shall mean an Award of Common Shares that are issued subject, in part, to the terms, conditions and restrictions described in Section 8.

(aa) “**Rule 16b-3**” shall mean Rule 16b-3 promulgated by the Securities and Exchange Commission under the Exchange Act and any successor rule.

(bb) “**Section 162(m)**” shall mean §162(m) of the Code, any rules or regulations promulgated thereunder, as they may exist or may be amended from time to time, or any successor to such section.

(cc) “**Section 409A**” shall mean §409A of the Code, any rules or regulations promulgated thereunder, as they may exist or may be amended from time to time, or any successor to such section.

(dd) “**Stock Appreciation Right**” shall mean an Award of a right to receive (without payment to Gaiam) cash, Common Shares, Other Gaiam Securities or property, or other forms of payment, or any combination thereof, as determined by the Committee, based on the increase in the value of the number of Common Shares specified in the Stock Appreciation Right. Stock Appreciation Rights are subject, in part, to the terms, conditions and restrictions described in Section 7.

(ee) “**Stock Option**” shall mean an Award of a right to purchase Common Shares. The term Stock Option shall include Nonqualified Stock Options, Incentive Stock Options and Purchased Options.

(ff) “**Ten Percent Employee**” shall mean an employee of the Company who owns stock representing more than ten percent of the voting power of all classes of stock of Gaiam or any parent or subsidiary of Gaiam.

(gg) “**Treasury Regulation**” shall mean a final, proposed or temporary regulation of the Department of Treasury under the Code and any successor regulation.

## CERTIFICATION

I, Jirka Rysavy, certify that:

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

Date: August 7, 2006

/s/ Jirka Rysavy

Jirka Rysavy  
Chairman of the Board and  
Chief Executive Officer



## CERTIFICATION

I, Vilia Valentine, certify that:

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

Date: August 7, 2006

/s/ Vilia Valentine  
Vilia Valentine  
Chief Financial Officer

**CERTIFICATIONS PURSUANT TO 18 U.S.C. SECTION 1350**

In connection with the Quarterly Report of Gaiam, Inc. (the "Company") on Form 10-Q for the period ending June 30, 2006, as filed with the U.S. Securities and Exchange Commission on the date hereof (the "Report"), I, Jirka Rysavy, Chairman and Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to my knowledge:

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

Date: August 7, 2006

/s/ Jirka Rysavy  
Jirka Rysavy  
Chairman of the Board and  
Chief Executive Officer

**CERTIFICATIONS PURSUANT TO 18 U.S.C. SECTION 1350**

In connection with the Quarterly Report of Gaiam, Inc. (the "Company") on Form 10-Q for the period ending June 30, 2006, as filed with the U.S. Securities and Exchange Commission on the date hereof (the "Report"), I, Vilia Valentine, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to my knowledge:

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

Date: August 7, 2006

/s/ Vilia Valentine  
Vilia Valentine  
Chief Financial Officer