

Office of the Secretary of State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE RESTATED CERTIFICATE OF "ONSITE 1ST, INC.", CHANGING ITS NAME FROM "ONSITE 1ST, INC." TO "MEDVANTX, INC.", FILED IN THIS OFFICE ON THE THIRTEENTH DAY OF AUGUST, A.D. 2001, AT 9 O'CLOCK A.M.

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



Harriet Smith Windsor
Harriet Smith Windsor, Secretary of State

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AUTHENTICATION: 1293232

DATE: 08-13-01

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AMENDED AND RESTATED CERTIFICATE OF INCORPORATION

OF

ONSITE 1ST, INC.

ONSITE 1ST, INC., a corporation organized and existing under the General Corporation Law of the State of Delaware DOES HEREBY CERTIFY:

1. The original Certificate of Incorporation of OnSite 1st, Inc. was filed with the Secretary of State of the State of Delaware on January 12, 2000 under the name "DirectRx, Inc."

2. An Amended and Restated Certificate of Incorporation of OnSite 1st, Inc. was filed with the Secretary of State of the State of Delaware on April 5, 2000 and a Certificate of Correction with regard thereto was filed on July 18, 2000.

3. An Amended and Restated Certificate of Incorporation of OnSite Rx, Inc. was filed with the Secretary of State of the State of Delaware on July 21, 2000, August 31, 2000 and February 26, 2001.

4. The Amended and Restated Certificate of Incorporation of OnSite 1st, Inc. in the form as hereinafter set forth has been duly adopted in accordance with the provisions of Sections 245 and 242 of the General Corporation Law of the State of Delaware by the directors and stockholders of the Corporation.

5. The Amended and Restated Certificate of Incorporation so adopted reads in full as follows:

FIRST: The name of this corporation is MedVantx, Inc. (the "Corporation").

SECOND: The address of the registered office of the corporation in the State of Delaware is 1209 Orange Street, City of Wilmington, County of New Castle, and the name of the registered agent of the corporation in the State of Delaware at such address is The Corporation Trust Company.

THIRD: The purpose of this corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of the State of Delaware.

FOURTH: The total number of shares of all classes of capital stock which the Corporation shall have authority to issue is 17,250,000 shares, consisting of 12,000,000 shares of Common Stock, par value \$.0001 per share (the "Common Stock") and 5,250,000 shares of Preferred Stock, par value \$.0001 per share (the "Preferred Stock").

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STATE OF DELAWARE
SECRETARY OF STATE
DIVISION OF CORPORATIONS
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A description of the respective classes of stock and a statement of the designations, preferences, voting powers (or no voting powers), relative, participating, optional or other special rights and privileges and the qualifications, limitations and restrictions of the Preferred Stock and Common Stock are as follows:

A. PREFERRED STOCK

1. Number of Shares. The series of Preferred Stock designated and known as "Series A Convertible Preferred Stock" shall consist of 1,750,000 shares. The series of Preferred Stock designated and known as "Series B Convertible Preferred Stock" shall consist of 3,500,000 shares.

2. Voting.

2A. General. Except as may be otherwise provided in these terms of the Series A Convertible Preferred Stock or Series B Convertible Preferred Stock or by law, the Series A Convertible Preferred Stock and Series B Convertible Preferred Stock shall vote together with all other classes and series of stock of the Corporation as a single class on all actions to be taken by the stockholders of the Corporation, including, but not limited to actions amending the Certificate of Incorporation of the Corporation to increase the number of authorized shares of Common Stock. Each share of Series A Convertible Preferred Stock or, as applicable, Series B Convertible Preferred Stock shall entitle the holder thereof to such number of votes per share on each such action as shall equal the number of shares of Common Stock (including fractions of a share) into which each share of Series A Convertible Preferred Stock or, as applicable, Series B Convertible Preferred Stock is then convertible.

2B. Board Size. The Corporation shall not, without the written consent or affirmative vote of a majority of the members of the Board of Directors elected by the holders of the then outstanding Preferred Stock, given in writing or by vote at a meeting, alter the authorized number of directors constituting the Board of Directors.

2C. Board Seats. The holders of the Series A Convertible Preferred Stock, voting as a separate series, shall be entitled to elect two (2) directors of the Corporation. The holders of the Series B Convertible Preferred Stock, voting as a separate series, shall be entitled to elect one (1) director of the Corporation. The holders of the Common Stock, voting as a separate class, shall be entitled to elect two (2) directors of the Corporation. A sixth director of the Corporation shall be such person, if any, who has received a plurality vote of the holders of the Preferred Stock, voting as a separate class (on an as-converted to Common Stock basis), and a plurality vote of the holders of the Common Stock, voting as a separate class. Notwithstanding the foregoing or anything else to the contrary provided in the Amended and Restated Certificate of Incorporation, if the Corporation fails or refuses, for any reason (other than a contractual prohibition on such redemption approved by each of the directors appointed by the holders of the Series A Convertible Preferred Stock and the director appointed by the holders of the Series B Convertible Preferred Stock), to redeem on the Redemption Date (as defined in paragraph 7) all of the then outstanding shares of Preferred Stock in accordance with the terms and provisions of paragraph 7, the holders of the Preferred Stock, voting as a separate class (on an as-converted to

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Common Stock basis), shall be entitled to elect a majority of the directors of the Corporation. At any meeting (or in a written consent in lieu thereof) held for the purpose of electing directors, the presence in person or by proxy (or the written consent) of the holders of a majority of the shares of Preferred Stock then outstanding shall constitute a quorum of the Preferred Stock for the election of directors to be elected solely by the holders of the Preferred Stock or jointly by the holders of the Preferred Stock and the Common Stock. A vacancy in any directorship elected by the holders of the Series A Convertible Preferred Stock shall be filled only by vote or written consent of the holders of the Series A Convertible Preferred Stock, a vacancy in any directorship elected by the holders of the Common Stock shall be filled only by vote or written consent of the holders of the Common Stock, a vacancy in the directorship elected by the holders of the Series B Convertible Preferred Stock shall be filled only by vote or written consent of the holders of the Series B Convertible Preferred Stock and a vacancy in the directorship elected jointly by the holders of the Preferred Stock and Common Stock shall be filled only by vote or written consent of the holders of the Preferred Stock and the Common Stock as provided above.

3. Dividends. The holders of the Series A Convertible Preferred Stock shall be entitled to receive, out of funds legally available therefor, when and if declared by the Board of Directors, dividends at the rate per annum of \$0.082 per share and the holders of the Series B Convertible Preferred Stock shall be entitled to receive, out of funds legally available therefor, when and if declared by the Board of Directors, dividends at a rate per annum of \$0.284 per share (the "Accruing Dividends"), beginning in the year 2003, on the same month and day in which such shares were sold and issued to such holders of Series A Convertible Preferred Stock and Series B Convertible Preferred Stock respectively in this year 2000. Accruing Dividends shall accrue from day to day, whether or not earned or declared, and shall be cumulative. At any time that a dividend is to be declared or paid on the Common Stock, and as a condition precedent to such declaration and payment, there shall be declared and paid, in addition to the Accruing Dividends (whether or not such Accruing Dividends are then payable), dividends to all holders of Preferred Stock in an amount which such holders would have received had all shares of Preferred Stock been converted (on the date for determination of Stockholders entitled to such dividends) to Common Stock.

4. Liquidation. Upon any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary: (a) the holders of the shares of Series A Convertible Preferred Stock shall be entitled, before any distribution or payment is made upon any stock ranking on liquidation junior to the Series A Convertible Preferred Stock (and pari passu with the Series B Convertible Preferred Stock), to be paid an amount equal to the greater of (i) \$2.05 per share plus, in the case of each share, an amount equal to all Accruing Dividends unpaid thereon (whether or not declared) and any other dividends declared but unpaid thereon, computed to the date payment thereof is made available, or (ii) such amount per share as would have been payable had each such share been converted to Common Stock pursuant to paragraph 6 immediately prior to such liquidation, dissolution or winding up, and (b) the holders of the shares of Series B Convertible Preferred Stock shall be entitled, before any distribution or payment is made upon any stock ranking on liquidation junior to the Series B Convertible Preferred Stock (and pari passu with the Series A Convertible Preferred Stock), to be paid an amount equal to the greater of (i) \$7.10 per share plus, in the case of each share, an amount equal to all Accruing Dividends

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unpaid thereon (whether or not declared) and any other dividends declared but unpaid thereon, computed to the date payment thereof is made available, or (ii) such amount per share as would have been payable had each such share been converted to Common Stock pursuant to paragraph 6 immediately prior to such liquidation, dissolution or winding up, and the holders of Preferred Stock shall not be entitled to any further payment; such amount payable with respect to one share of Preferred Stock being sometimes referred to as the "Liquidation Preference Payment" and with respect to all shares of Preferred Stock being sometimes referred to as the "Liquidation Preference Payments". If upon such liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, the assets to be distributed among the holders of Preferred Stock shall be insufficient to permit payment to the holders of Preferred Stock of the amount distributable as aforesaid, then the entire assets of the Corporation to be so distributed shall be distributed ratably (based on the respective Liquidation Preference Payment to which each such stockholder is otherwise entitled hereunder) among the holders of Preferred Stock. Upon any such liquidation, dissolution or winding up of the Corporation, after the holders of Preferred Stock shall have been paid in full the amounts to which they shall be entitled, the remaining net assets of the Corporation may be distributed to the holders of stock ranking on liquidation junior to the Preferred Stock. Written notice of such liquidation, dissolution or winding up, stating a payment date, the amount of the Liquidation Preference Payments and the place where said Liquidation Preference Payments shall be payable, shall be delivered in person, mailed by certified or registered mail, return receipt requested, or sent by telecopier or telex, not less than 20 days prior to the payment date stated therein, to the holders of record of shares of Preferred Stock, such notice to be addressed to each such holder at its address as shown by the records of the Corporation. The consolidation or merger of the Corporation into or with any other entity or entities which results in the exchange of outstanding shares of the Corporation for securities or other consideration issued or paid or caused to be issued or paid by any such entity or affiliate thereof (other than a merger to reincorporate the Corporation in a different jurisdiction) pursuant to which the owners of voting capital stock (and voting power) of the Corporation prior to such transaction own less than 50% of the voting capital stock (and voting power) of the Corporation after such transaction, and the sale, lease, abandonment, transfer or other disposition by the Corporation of all or substantially all its assets, shall be deemed to be a liquidation, dissolution or winding up of the Corporation within the meaning of the provisions of this paragraph 4. In connection with any such transaction contemplated by the preceding sentence, all consideration payable to the stockholders of the Corporation, in connection with a merger or consolidation, or all consideration payable to the Corporation, together with all other available assets of the Corporation (net of obligations owed by the Corporation), in the case of an asset sale, shall be paid to and deemed (to the fullest extent permitted by law) distributed (in the case of a merger or consolidation) or available for distribution and payment as provided herein (in the case of a sale of assets), as applicable, to the holders of capital stock of the Corporation in accordance with the preference and priorities set forth in this paragraph 4, with such preferences and priorities specifically intended to be applicable in any such merger, consolidation or sale transaction as if the same were a liquidation, dissolution or winding up. If applicable, the Corporation shall either (i) cause the agreement and plan of merger or consolidation to provide as a consequence of such merger or consolidation for the conversion of the Preferred Stock into the right to receive an amount (either in cash, or, at the option of holders of at least 61% of the Preferred Stock in the case of a merger or consolidation for stock, stock of the surviving

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corporation) equal to the applicable amount payable under this paragraph 4; or (ii) immediately concurrent with the consummation with the sale of all or substantially all of the assets of the Corporation, the redemption of all outstanding shares of the Preferred Stock for an amount either in cash or, at the option of holders of at least 61% of the Preferred Stock in the case of a sale of assets for stock, stock of the surviving corporation equal to the applicable amount payable under this paragraph 4. In the event of the foregoing redemption, (i) the Corporation shall revalue its assets and liabilities to the fullest extent permitted by law to determine lawfully available funds for such redemption, and (ii) if the Corporation shall not have such funds available to redeem all such shares, the Corporation shall redeem such shares to the fullest extent of available funds as the same became available. For purposes hereof, the Common Stock shall rank on liquidation junior to the Preferred Stock.

5. Restrictions.

(a) Series A Voting Restrictions. At any time when at least 200,000 shares of Series A Convertible Preferred Stock are outstanding, except where the vote or written consent of the holders of a greater number of shares of the Corporation is required by law or by the Amended and Restated Certificate of Incorporation, and in addition to any other vote required by law or the Amended and Restated Certificate of Incorporation, without the approval of the holders of at least 61% of the then outstanding shares of Series A Convertible Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a series, the Corporation will not:

(i). Authorize any action that increases or decreases the authorized number of shares of Common Stock or Preferred Stock;

(ii). Create or authorize the creation of any additional class or series of shares of stock unless the same ranks junior to the Series A Convertible Preferred Stock as to the distribution of assets on the liquidation, dissolution or winding up of the Corporation, or increase the authorized amount of the Series A Convertible Preferred Stock or increase the authorized amount of any additional class or series of shares of stock unless the same ranks junior to the Series A Convertible Preferred Stock as to the distribution of assets on the liquidation, dissolution or winding up of the Corporation, or create or authorize any obligation or security convertible into shares of Series A Convertible Preferred Stock or into shares of any other class or series of stock unless the same ranks junior to the Series A Convertible Preferred Stock as to the distribution of assets on the liquidation, dissolution or winding up of the Corporation, whether any such creation, authorization or increase shall be by means of amendment to the Amended and Restated Certificate of Incorporation or by merger, consolidation or otherwise;

(iii). Authorize any amendment or change of the rights, preferences, privileges or powers of, or restrictions provided for the benefit of, the Series A Convertible Preferred Stock;

(iv). Consent to any liquidation, dissolution or winding up of the Corporation or consolidate or merge into or with any other entity or entities or sell, lease, abandon, transfer or otherwise dispose of all or substantially all its assets;

(v). Amend, alter or repeal its Amended and Restated Certificate of Incorporation so as to effect in any manner the rights of the holders of the Series A Convertible Preferred Stock;

(vi). Create indebtedness for borrowed money, in a single or related series of transactions, in an amount in excess of \$500,000; or

(vii). Create a new plan or arrangement for the grant of stock options or the issuance of restricted stock or increase the number of shares available under such plan or arrangement.

(b) Series B Voting Restrictions. At any time when at least 338,000 shares of Series B Convertible Preferred Stock are outstanding, except where the vote or written consent of the holders of a greater number of shares of the Corporation is required by law or by the Amended and Restated Certificate of Incorporation, and in addition to any other vote required by law or the Amended and Restated Certificate of Incorporation, without the approval of the holders of at least 61% of the then outstanding shares of Series B Convertible Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a series, the Corporation will not:

(i). Authorize any action that increases or decreases the authorized number of shares of Common Stock or Preferred Stock;

(ii). Create or authorize the creation of any additional class or series of shares of stock unless the same ranks junior to the Series B Convertible Preferred Stock as to the distribution of assets on the liquidation, dissolution or winding up of the Corporation, or increase the authorized amount of the Series B Convertible Preferred Stock or increase the authorized amount of any additional class or series of shares of stock unless the same ranks junior to the Series B Convertible Preferred Stock as to the distribution of assets on the liquidation, dissolution or winding up of the Corporation, or create or authorize any obligation or security convertible into shares of Series B Convertible Preferred Stock or into shares of any other class or series of stock unless the same ranks junior to the Series B Convertible Preferred Stock as to the distribution of assets on the liquidation, dissolution or winding up of the Corporation, whether any such creation, authorization or increase shall be by means of amendment to the Amended and Restated Certificate of Incorporation or by merger, consolidation or otherwise;

(iii). Authorize any amendment or change of the rights, preferences, privileges or powers of, or restrictions provided for the benefit of, the Series B Convertible Preferred Stock;

(iv). Consent to any liquidation, dissolution or winding up of the Corporation or consolidate or merge into or with any other entity or entities or sell, lease, abandon, transfer or otherwise dispose of all or substantially all its assets;

(v). Amend, alter or repeal its Amended and Restated Certificate or Amended and Restated Bylaws of Incorporation so as to effect in any manner the rights of the holders of the Series B Convertible Preferred Stock;

(vi). Create indebtedness for borrowed money, in a single or related series of transactions, in an amount in excess of \$500,000;

(vii). Create a new plan or arrangement for the grant of stock options or the issuance of restricted stock or increase the number of shares available under such plan or arrangement.

(viii). Consent to an acquisition of any entity having annual revenues of five million dollars (\$5,000,000) or more, unless such transaction has been approved by the director elected by the holders of the Series B Convertible Preferred Stock;

(ix). Consent to any redemption or repurchase by the Corporation of its capital stock (other than shares or Preferred Stock pursuant to Section 7 hereof, or pursuant to the Corporation's Amended and Restated Bylaws, or pursuant to any repurchase right in any stock purchase agreement or similar agreement between the Corporation and any of Robert Feeney, Scott Bechtler-Levin, Paul Cattaneo and Scott Minick);

(x). Consent to enter into any transaction with any affiliate of the Corporation, unless such transaction has been approved by the director elected by the holders of the Series B Convertible Preferred Stock;

(xi). Change the size of or election procedures regarding the Corporation's Board of Director's, unless such transaction has been approved by the director elected by the holders of the Series B Convertible Preferred Stock; or

(xii). Enter into any other line of business not substantially similar or related to the Corporation's current line of business.

6. Conversions. The holders of shares of Preferred Stock shall have the following conversion rights:

6A. Right to Convert. Subject to the terms and conditions of this paragraph 6, the holder of any share or shares of Series A Convertible Preferred Stock shall have the right, at its option at any time, to convert any such shares of Series A Convertible Preferred Stock (except that upon any liquidation of the Corporation the right of conversion shall terminate at the close of business on the business day fixed for payment of the amount distributable on the Series A Convertible Preferred Stock) into such number of fully paid and nonassessable shares of Common Stock as is obtained by (i) multiplying the number of shares of Series A Convertible Preferred Stock so to be converted by \$1.025 and (ii) dividing the result by the conversion price of \$1.025 per share or, in case an adjustment of such price has taken place pursuant to the further provisions of this paragraph 6, then by the conversion price as last adjusted and in effect at the date any share or shares of Series A Convertible Preferred Stock are surrendered for conversion (such price, or such price as last adjusted, being referred to as the "Series A Conversion Price"). Subject to the terms and conditions of this paragraph 6, the holder of any share or shares of Series B Convertible Preferred Stock shall have the right, at its option at any time, to convert any such shares of Series B Convertible Preferred Stock (except that upon any liquidation of the

Corporation the right of conversion shall terminate at the close of business on the business day fixed for payment of the amount distributable on the Series B Convertible Preferred Stock) into such number of fully paid and nonassessable shares of Common Stock as is obtained by (i) multiplying the number of shares of Series B Convertible Preferred Stock so to be converted by \$3.55 and (ii) dividing the result by the conversion price of \$3.55 per share or, in case an adjustment of such price has taken place pursuant to the further provisions of this paragraph 6, then by the conversion price as last adjusted and in effect at the date any share or shares of Series B Convertible Preferred Stock are surrendered for conversion (such price, or such price as last adjusted, being referred to as the "Series B Conversion Price"). Such rights of conversion shall be exercised by the holder thereof by giving written notice that the holder elects to convert a stated number of shares of Preferred Stock into Common Stock and by surrender of a certificate or certificates for the shares so to be converted to the Corporation at its principal office (or such other office or agency of the Corporation as the Corporation may designate by notice in writing to the holders of the Preferred Stock) at any time during its usual business hours on the date set forth in such notice, together with a statement of the name or names (with address) in which the certificate or certificates for shares of Common Stock shall be issued.

6B. Issuance of Certificates; Time Conversion Effected. Promptly after the receipt of the written notice referred to in subparagraph 6A and surrender of the certificate or certificates for the share or shares of Preferred Stock to be converted, the Corporation shall issue and deliver, or cause to be issued and delivered, to the holder, registered in such name or names as such holder may direct, a certificate or certificates for the number of whole shares of Common Stock issuable upon the conversion of such share or shares of Preferred Stock. To the extent permitted by law, such conversion shall be deemed to have been effected and the Series A Conversion Price or Series B Conversion Price, as applicable, shall be determined as of the close of business on the date on which such written notice shall have been received by the Corporation and the certificate or certificates for such share or shares shall have been surrendered as aforesaid, and at such time the rights of the holder of such share or shares of Preferred Stock shall cease, and the person or persons in whose name or names any certificate or certificates for shares of Common Stock shall be issuable upon such conversion shall be deemed to have become the holder or holders of record of the shares represented thereby.

6C. Fractional Shares; Dividends; Partial Conversion. No fractional shares shall be issued upon conversion of Preferred Stock into Common Stock and no payment or adjustment shall be made upon any conversion on account of any cash dividends on the Common Stock issued upon such conversion. At the time of each conversion, the Corporation shall pay in cash an amount equal to all dividends, excluding Accruing Dividends, accrued and unpaid on the shares of Preferred Stock surrendered for conversion to the date upon which such conversion is deemed to take place as provided in subparagraph 6B. In case the number of shares of Preferred Stock represented by the certificate or certificates surrendered pursuant to subparagraph 6A exceeds the number of shares converted, the Corporation shall, upon such conversion, execute and deliver to the holder, at the expense of the Corporation, a new certificate or certificates for the number of shares of Preferred Stock represented by the certificate or certificates surrendered which are not to be converted. If any fractional share of Common Stock would, except for the provisions of the first sentence of this subparagraph 6C, be delivered upon such conversion, the

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Corporation, in lieu of delivering such fractional share, shall pay to the holder surrendering the Preferred Stock for conversion an amount in cash equal to the current market price of such fractional share as determined in good faith by the Board of Directors of the Corporation.

6D. Adjustment of Price Upon Issuance of Common Stock. Except as provided in subparagraph 6E, if and whenever the Corporation shall issue or sell, or is, in accordance with subparagraphs 6D(1) through 6D(7), deemed to have issued or sold, any shares of Common Stock for a consideration per share less than the Series A Conversion Price or, as applicable, the Series B Conversion Price in effect immediately prior to the time of such issue or sale, then, forthwith upon such issue or sale, the Series A Conversion Price or, as applicable, the Series B Conversion Price shall be reduced (but in no event increased) to the price determined by dividing (i) an amount equal to the sum of (a) the number of shares of Common Stock outstanding immediately prior to such issue or sale (including shares of Common Stock issuable upon conversion of all outstanding shares of Preferred Stock) multiplied by the then existing Series A Conversion Price or, as applicable, the Series B Conversion Price and (b) the consideration, if any, received by the Corporation upon such issue or sale, by (ii) the total number of shares of Common Stock outstanding immediately after such issue or sale (including shares of Common Stock issuable upon conversion of all outstanding shares of Preferred Stock).

For purposes of this subparagraph 6D, the following subparagraphs 6D(1) to 6D(7) shall also be applicable:

6D(1) Issuance of Rights or Options. In case at any time the Corporation shall in any manner grant (whether directly or by assumption in a merger or otherwise) any warrants or other rights to subscribe for or to purchase, or any options for the purchase of, Common Stock or any stock or security convertible into or exchangeable for Common Stock (such warrants, rights or options being called "Options" and such convertible or exchangeable stock or securities being called "Convertible Securities") whether or not such Options or the right to convert or exchange any such Convertible Securities are immediately exercisable, and the price per share for which Common Stock is issuable upon the exercise of such Options or upon the conversion or exchange of such Convertible Securities (determined by dividing (i) the total amount, if any, received or receivable by the Corporation as consideration for the granting of such Options, plus the minimum aggregate amount of additional consideration payable to the Corporation upon the exercise of all such Options, plus, in the case of such Options which relate to Convertible Securities, the minimum aggregate amount of additional consideration, if any, payable upon the issue or sale of such Convertible Securities and upon the conversion or exchange thereof, by (ii) the total maximum number of shares of Common Stock issuable upon the exercise of such Options or upon the conversion or exchange of all such Convertible Securities issuable upon the exercise of such Options) shall be less than the Series A Conversion Price, or, as applicable, the Series B Conversion Price in effect immediately prior to the time of the granting of such Options, then the total maximum number of shares of Common Stock issuable upon the exercise of such Options or upon conversion or exchange of the total maximum amount of such Convertible Securities issuable upon the exercise of such Options shall be deemed to

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have been issued for such price per share as of the date of granting of such Options or the issuance of such Convertible Securities and thereafter shall be deemed to be outstanding. Except as otherwise provided in subparagraph 6D(3), no adjustment of the Series A Conversion Price, or, as applicable, the Series B Conversion Price shall be made upon the actual issue of such Common Stock or of such Convertible Securities upon exercise of such Options or upon the actual issue of such Common Stock upon conversion or exchange of such Convertible Securities.

6D(2) Issuance of Convertible Securities. In case the Corporation shall in any manner issue (whether directly or by assumption in a merger or otherwise) or sell any Convertible Securities, whether or not the rights to exchange or convert any such Convertible Securities are immediately exercisable, and the price per share for which Common Stock is issuable upon such conversion or exchange (determined by dividing (i) the total amount received or receivable by the Corporation as consideration for the issue or sale of such Convertible Securities, plus the minimum aggregate amount of additional consideration, if any, payable to the Corporation upon the conversion or exchange thereof, by (ii) the total maximum number of shares of Common Stock issuable upon the conversion or exchange of all such Convertible Securities) shall be less than the Series A Conversion Price, or, as applicable, the Series B Conversion Price in effect immediately prior to the time of such issue or sale, then the total maximum number of shares of Common Stock issuable upon conversion or exchange of all such Convertible Securities shall be deemed to have been issued for such price per share as of the date of the issue or sale of such Convertible Securities and thereafter shall be deemed to be outstanding, provided that (a) except as otherwise provided in subparagraph 6D(3), no adjustment of the Series A Conversion Price, or, as applicable, the Series B Conversion Price shall be made upon the actual issue of such Common Stock upon conversion or exchange of such Convertible Securities and (b) if any such issue or sale of such Convertible Securities is made upon exercise of any Options to purchase any such Convertible Securities for which adjustments of the Series A Conversion Price, or, as applicable, the Series B Conversion Price have been or are to be made pursuant to other provisions of this subparagraph 6D, no further adjustment of the Series A Conversion Price, or, as applicable, the Series B Conversion Price shall be made by reason of such issue or sale.

6D(3) Change in Option Price or Conversion Rate. Upon the happening of any of the following events, namely, (1) if the purchase price provided for in any Option referred to in subparagraph 6D(1), the additional consideration, if any, payable upon the conversion or exchange of any Convertible Securities referred to in subparagraph 6D(1) or 6D(2), or the rate at which Convertible Securities referred to in subparagraph 6D(1) or 6D(2) are convertible into or exchangeable for Common Stock shall change at any time (including, but not limited to, changes under or by reason of provisions designed to protect against dilution) or (2) in the case of any Option with a variable purchase price or Convertible Securities with a variable conversion price, such purchase price or conversion price becomes fixed either by exercise or conversion, as the case may be, or by the terms of such Option or Convertible Securities, the Series A

Conversion Price or, as applicable, Series B Conversion Price in effect at the time of such event shall forthwith be readjusted to the Series A Conversion Price or, as applicable, Series B Conversion Price which would have been in effect at such time had such Options or Convertible Securities still outstanding provided for such changed purchase price, additional consideration or conversion rate, or newly fixed purchase price or conversion price, as the case may be, at the time initially granted, issued or sold; and on the termination of any such Option or any such right to convert or exchange such Convertible Securities, the Series A Conversion Price or, as applicable, Series B Conversion Price then in effect hereunder shall forthwith be increased to the Series A Conversion Price or, as applicable, Series B Conversion Price which would have been in effect at the time of such termination had such Option or Convertible Securities, to the extent outstanding immediately prior to such termination, never been issued.

6D(4) Stock Dividends. In case the Corporation shall declare a dividend or make any other distribution upon any stock of the Corporation (other than the Common Stock) payable in Common Stock, Options or Convertible Securities, then any Common Stock, Options or Convertible Securities, as the case may be, issuable in payment of such dividend or distribution shall be deemed to have been issued or sold without consideration.

6D(5) Consideration for Stock. In case any shares of Common Stock, Options or Convertible Securities shall be issued or sold for cash, the consideration received therefor shall be deemed to be the amount received by the Corporation therefor, without deduction therefrom of any expenses incurred or any underwriting commissions or concessions paid or allowed by the Corporation in connection therewith. In case any shares of Common Stock, Options or Convertible Securities shall be issued or sold for a consideration other than cash, the amount of the consideration other than cash received by the Corporation shall be deemed to be the fair value of such consideration as determined in good faith by the Board of Directors of the Corporation, without deduction of any expenses incurred or any underwriting commissions or concessions paid or allowed by the Corporation in connection therewith. In case any Options shall be issued in connection with the issue and sale of other securities of the Corporation, together comprising one integral transaction in which no specific consideration is allocated to such Options by the parties thereto, such Options shall be deemed to have been issued for such consideration as determined in good faith by the Board of Directors of the Corporation.

6D(6) Record Date. In case the Corporation shall take a record of the holders of its Common Stock for the purpose of entitling them (i) to receive a dividend or other distribution payable in Common Stock, Options or Convertible Securities or (ii) to subscribe for or purchase Common Stock, Options or Convertible Securities, then such record date shall be deemed to be the date of the issue or sale of the shares of Common Stock deemed to have been issued or sold upon the declaration of such dividend or the making of such other distribution or the date of the granting of such right of subscription or purchase, as the case may be.

6D(7) Treasury Shares. The number of shares of Common Stock outstanding at any given time shall not include shares owned or held by or for the account of the Corporation, and the disposition of any such shares shall be considered an issue or sale of Common Stock for the purpose of this subparagraph 6D.

6E. Certain Issues of Common Stock Excepted. Anything herein to the contrary notwithstanding, the Corporation shall not be required to make any adjustment of the Conversion Price in the case of (1) the issuance from and after the date of filing of these terms of the Series A Convertible Preferred Stock of up to an aggregate of 1,480,000 shares (appropriately adjusted to reflect the occurrence of any event described in subparagraph 6F), or such larger number of shares consented to pursuant to Section 6E(3) below, of Common Stock to directors, officers, employees or consultants of the Corporation in connection with their service as directors of the Corporation, their employment by the Corporation or their retention as consultants by the Corporation, plus such number of shares of Common Stock which are repurchased by the Corporation from such persons after such date pursuant to contractual rights held by the Corporation and at repurchase prices not exceeding the respective original purchase prices paid by such persons to the Corporation therefor, (2) the conversion of any of the Preferred Stock, or (3) any issuances as to which the director(s) elected by the holders of the shares of Series A Convertible Preferred Stock and, separately, shares of Series B Convertible Preferred Stock have unanimously consented to waive such adjustment.

6F. Subdivision or Combination of Common Stock. In case the Corporation shall at any time subdivide (by any stock split, stock dividend or otherwise) its outstanding shares of Common Stock into a greater number of shares, the Conversion Price in effect immediately prior to such subdivision shall be proportionately reduced, and, conversely, in case the outstanding shares of Common Stock shall be combined into a smaller number of shares, the Conversion Price in effect immediately prior to such combination shall be proportionately increased. In the case of any such subdivision, no further adjustment shall be made pursuant to subparagraph 6D(4) by reason thereof.

6G. Reorganization or Reclassification. If any capital reorganization or reclassification of the capital stock of the Corporation shall be effected in such a way that holders of Common Stock shall be entitled to receive stock, securities or assets with respect to or in exchange for Common Stock, then, as a condition of such reorganization or reclassification, lawful and adequate provisions shall be made whereby each holder of a share or shares of Preferred Stock shall thereupon have the right to receive, upon the basis and upon the terms and conditions specified herein and in lieu of the shares of Common Stock immediately theretofore receivable upon the conversion of such share or shares of Preferred Stock, such shares of stock, securities or assets as may be issued or payable with respect to or in exchange for a number of outstanding shares of such Common Stock equal to the number of shares of such Common Stock immediately theretofore receivable upon such conversion had such reorganization or reclassification not taken place, and in any such case appropriate provisions shall be made with respect to the rights and interests of such holder to the end that the provisions hereof (including without limitation provisions for adjustments of the Series A Conversion Price or, as applicable, the Series B Conversion Price) shall thereafter be applicable, as nearly as may be, in relation to

any shares of stock, securities or assets thereafter deliverable upon the exercise of such conversion rights.

6H. Notice of Adjustment. Upon any adjustment of the Series A Conversion Price or, as applicable, the Series B Conversion Price, then and in each such case the Corporation shall give written notice thereof, by delivery in person, certified or registered mail, return receipt requested, telecopier or telex, addressed to each holder of shares of Series A Convertible Preferred Stock or Series B Preferred Stock, as applicable, at the address of such holder as shown on the books of the Corporation, which notice shall state the Series A Conversion Price or, as applicable, the Series B Conversion Price resulting from such adjustment, setting forth in reasonable detail the method upon which such calculation is based.

6I. Other Notices. In case at any time:

(1) the Corporation shall declare any dividend upon its Common Stock payable in cash or stock or make any other distribution to the holders of its Common Stock;

(2) the Corporation shall offer for subscription pro rata to the holders of its Common Stock any additional shares of stock of any class or other rights;

(3) there shall be any capital reorganization or reclassification of the capital stock of the Corporation, or a consolidation or merger of the Corporation with or into another entity or entities, or a sale, lease, abandonment, transfer or other disposition of all or substantially all its assets; or

(4) there shall be a voluntary or involuntary dissolution, liquidation or winding up of the Corporation;

then, in any one or more of said cases, the Corporation shall give, by delivery in person, certified or registered mail, return receipt requested, telecopier or telex, addressed to each holder of any shares of Preferred Stock at the address of such holder as shown on the books of the Corporation, (a) at least 20 days' prior written notice of the date on which the books of the Corporation shall close or a record shall be taken for such dividend, distribution or subscription rights or for determining rights to vote in respect of any such reorganization, reclassification, consolidation, merger, disposition, dissolution, liquidation or winding up and (b) in the case of any such reorganization, reclassification, consolidation, merger, disposition, dissolution, liquidation or winding up, at least 20 days' prior written notice of the date when the same shall take place. Such notice in accordance with the foregoing clause (a) shall also specify, in the case of any such dividend, distribution or subscription rights, the date on which the holders of Common Stock shall be entitled thereto and such notice in accordance with the foregoing clause (b) shall also specify the date on which the holders of Common Stock shall be entitled to exchange their Common Stock for securities or other property deliverable upon such reorganization, reclassification, consolidation, merger, disposition, dissolution, liquidation or winding up, as the case may be.

6J. No Reissuance of Preferred Stock. Shares of Preferred Stock which are converted into shares of Common Stock as provided herein shall not be reissued.

6K. Closing of Books. The Corporation will at no time close its transfer books against the transfer of any Preferred Stock or of any shares of Common Stock issued or issuable upon the conversion of any shares of Preferred Stock in any manner which interferes with the timely conversion of such Preferred Stock, except as may otherwise be required to comply with applicable securities laws.

6L. Definition of Common Stock. As used in this paragraph 6, the term "Common Stock" shall mean and include the Corporation's authorized Common Stock, par value \$0.0001 per share, as constituted on the date hereof, and shall also include any capital stock of any class of the Corporation thereafter authorized which shall not be limited to a fixed sum or percentage in respect of the rights of the holders thereof to participate in dividends or in the distribution of assets upon the voluntary or involuntary liquidation, dissolution or winding up of the Corporation; provided that the shares of Common Stock receivable upon conversion of shares of Preferred Stock shall include only shares designated as Common Stock of the Corporation on the date of filing of this instrument, or in case of any reorganization or reclassification of the outstanding shares thereof, the stock, securities or assets provided for in subparagraph 6G.

6M. Mandatory Conversion. If at any time (a) the Corporation shall effect a firm commitment underwritten public offering of shares of Common Stock in which (i) the aggregate price paid for such shares by the public shall be at least \$20,000,000 and (ii) the price paid by the public for such shares shall be at least \$4.00 per share (appropriately adjusted to reflect the occurrence of any event described in subparagraph 6F or 6G), then effective upon the closing of the sale of such shares by the Corporation pursuant to such public offering or (b) the holders of at least 61% of the then outstanding shares of Series A Preferred Stock shall vote at a meeting or by written consent to convert, all outstanding shares of Series A Convertible Preferred Stock shall automatically convert to shares of Common Stock on the basis set forth in this paragraph 6. If at any time (a) the Corporation shall effect a firm commitment underwritten public offering of shares of Common Stock in which (i) the aggregate price paid for such shares by the public shall be at least \$20,000,000 and (ii) the price paid by the public for such shares shall be at least \$14.20 per share (appropriately adjusted to reflect the occurrence of any event described in subparagraph 6F or 6G), then effective upon the closing of the sale of such shares by the Corporation pursuant to such public offering or (b) the holders of at least 61% of the then outstanding shares of Series B Preferred Stock shall vote at a meeting or by written consent to convert, all outstanding shares of Series B Convertible Preferred Stock shall automatically convert to shares of Common Stock on the basis set forth in this paragraph 6. Holders of shares of Preferred Stock so converted may deliver to the Corporation at its principal office (or such other office or agency of the Corporation as the Corporation may designate by notice in writing to such holders) during its usual business hours, the certificate or certificates for the shares so converted. As promptly as practicable thereafter, the Corporation shall issue and deliver to such holder a certificate or certificates for the number of whole shares of Common Stock to which such holder is entitled, together with any cash dividends and payment in lieu of fractional shares to which such holder may be entitled pursuant to subparagraph 6C. Until such time as a holder

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of shares of Preferred Stock shall surrender his or its certificates therefor as provided above, such certificates shall be deemed to represent the shares of Common Stock to which such holder shall be entitled upon the surrender thereof.

7. Redemption. The shares of Preferred Stock shall be redeemed as follows:

7A. Demand Redemption. At any time on or after February 8, 2005, but in no event more than once per calendar year, the holders of at least two-thirds of the then outstanding shares of Series A Convertible Preferred Stock may provide notice (a "Redemption Request") to the Corporation that the Corporation redeem all or any portion of the then outstanding shares of Series A Convertible Preferred Stock. At any time on or after June 30, 2005, but in no event more than once per calendar year, the holders of at least two-thirds of the then outstanding shares of Series B Convertible Preferred Stock may provide notice (a "Redemption Request") to the Corporation that the Corporation redeem all or any portion of the then outstanding shares of Series A Convertible Preferred Stock.

7B. Redemption Price and Payment. The Preferred Stock to be redeemed, subject to the provisions of Section 7(c) or a contractual prohibition on such redemption, on the date set for redemption (the "Redemption Date") shall be redeemed by paying for each share in cash an amount equal to \$1.025 per share of Series A Convertible Preferred Stock and \$3.55 per share of Series B Convertible Preferred Stock (subject to equitable adjustment for any stock split, stock dividend, combination of shares or the like) plus, in the case of each share, an amount equal to all dividends declared but unpaid thereon, computed to the Redemption Date, such amount being referred to as the "Redemption Price". Such payment may, at the Corporation's option, be made in full on the Redemption Date or be made payable in two(2) equal annual installments to the holders entitled thereto.

7C. Redemption Mechanics. At least twenty (20) but not more than thirty (30) days prior to the applicable Redemption Date, written notice (the "Redemption Notice") shall be given by the Corporation by delivery in person, certified or registered mail, return receipt requested, telecopier or telex, to each holder of record (at the close of business on the business day next preceding the day on which the Redemption Notice is given) of shares of Series A Convertible Preferred Stock or, as applicable, Series B Convertible Preferred Stock, notifying such holder of the applicable Redemption Request and specifying the applicable Redemption Price, the applicable Redemption Date and the place where said Redemption Price shall be payable. The Redemption Notice shall be addressed to each holder at his address as shown by the records of the Corporation. Each holder of Series A Convertible Preferred Stock or, as applicable, Series B Convertible Preferred Stock may, but is not obligated to, participate in such redemption on a pro rata basis. From and after the close of business on the Redemption Date, unless there shall have been a default in the payment of the applicable Redemption Price, all rights of holders of shares of Series A Convertible Preferred Stock or, as applicable, Series B Convertible Preferred Stock, being redeemed (except the right to receive the Redemption Price) shall cease with respect to such shares, and such shares shall not thereafter be transferred on the books of the Corporation or be deemed to be outstanding for any purpose whatsoever. If the funds of the Corporation legally available for redemption of shares of Series A Convertible Preferred Stock or, as applicable, Series B Convertible Preferred Stock, on the applicable

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Redemption Date are insufficient to redeem the total number of shares of Series A Convertible Preferred Stock or, as applicable, Series B Convertible Preferred Stock, required to be redeemed thereon, the holders of shares of Series A Convertible Preferred Stock or, as applicable, Series B Convertible Preferred Stock who have, as of such date, elected pursuant to this paragraph 7 to have redeemed any such shares held by them, shall share ratably in any funds legally available for redemption of such shares according to the respective amounts which would be payable with respect to the full number of shares owned by them if all such outstanding shares were redeemed in full. The shares of Series A Convertible Preferred Stock or, as applicable, Series B Convertible Preferred Stock not redeemed shall remain outstanding and entitled to all rights and preferences provided herein. At any time thereafter when additional funds of the Corporation are legally available for the redemption of such shares of Series A Convertible Preferred Stock, or as applicable, Series B Convertible Preferred Stock, such funds will be used, at the end of the next succeeding fiscal quarter, to redeem the balance of such shares, or such portion thereof for which funds are then legally available, on the basis set forth above.

7D. Redeemed or Otherwise Acquired Shares to be Retired. Any shares of Series A Convertible Preferred Stock or, as applicable, Series B Convertible Preferred Stock redeemed pursuant to this paragraph 7 or otherwise acquired by the Corporation in any manner whatsoever shall be cancelled and shall not under any circumstances be reissued; and the Corporation may from time to time take such appropriate corporate action as may be necessary to reduce accordingly the number of authorized shares of Series A Convertible Preferred Stock or, as applicable, Series B Convertible Preferred Stock.

B. COMMON STOCK

1. Priority. All preferences, voting powers, relative, participating, optional or other special rights and privileges, and qualifications, limitations, or restrictions of the Common Stock are expressly made subject and subordinate to those that may be fixed with respect to any shares of the Preferred Stock.

2. Voting Rights. Except as otherwise required by law or this certificate of incorporation, each holder of Common Stock shall have one vote in respect of each share of stock held by such stockholder of record on the books of the Corporation for the election of directors and on all matters submitted to a vote of stockholders of the Corporation. Except as may be otherwise provided in this certificate of incorporation or by law, the Common Stock shall vote together with all other classes and series of stock of the Corporation (including the Series A Convertible Preferred Stock) as a single class on all actions to be taken by the stockholders of the Corporation.

3. Dividends. Subject to the preferential rights of the Preferred Stock, the holders of shares of Common Stock shall be entitled to receive, when, as and if declared by the Board of Directors of the Corporation, out of the assets of the Corporation which are by law available therefor, dividends payable either in cash, in property or in shares of capital stock.

4. Liquidation. In the event of any dissolution, liquidation or winding up of the affairs of the Corporation, after distribution in full of the preferential amounts to be distributed to

the holders of shares of the Preferred Stock, the holders of Common Stock shall be entitled to receive all of the remaining assets of the Corporation of whatever kind available for distribution to stockholders ratably in proportion to the number of shares of Common Stock held by them respectively, unless otherwise provided by law or this certificate of incorporation, including any amendment or restatement thereof.

FIFTH. The Corporation is to have perpetual existence.

SIXTH. In furtherance and not in limitation of the powers conferred by the laws of the State of Delaware:

A. The management of the business and the conduct of the affairs of the corporation shall be vested in its Board of Directors. The number of directors which shall constitute the whole Board of Directors shall be fixed by the Board of Directors in the manner provided in the By-Laws.

B. The Board of Directors of the Corporation is expressly authorized to adopt, amend or repeal the By-Laws of the Corporation.

C. Elections of directors need not be by written ballot unless the By-Laws of the Corporation shall so provide.

D. The books of the Corporation may be kept at such place within or without the State of Delaware as the by-laws of the Corporation may provide or as may be designated from time to time by the Board of Directors of the Corporation.

SEVENTH. The liability of the directors for monetary damages shall be eliminated to the fullest extent under applicable law. This corporation is authorized to provide indemnification of agents (as defined in Section 317 of the California General Corporation Law) through bylaw provisions or through agreements with the agents, or through stockholder resolutions, or otherwise, to the extent allowable under applicable law.

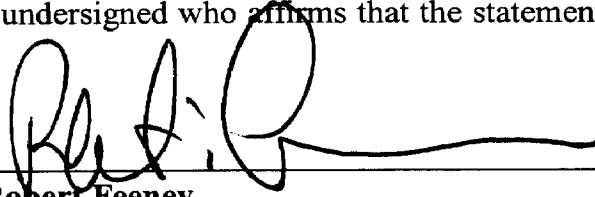
EIGHTH. The Corporation reserves the right to amend or repeal any provision contained in this certificate of incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon a stockholder herein are granted subject to this reservation, except that (i) no such amendment which alters or repeals the rights or preferences of the Series A Convertible Preferred Stock may be amended (whether by merger, consolidation or otherwise), modified or waived without the written consent or affirmative vote of the holders of at least 61% of the then outstanding shares of Series A Convertible Preferred Stock; and (ii) no such amendment which alters or repeals the rights or preferences of the Series B Convertible Preferred Stock may be amended (whether by merger, consolidation or otherwise), modified or

waived without the written consent or affirmative vote of the holders of at least 61% of the then outstanding shares of Series B Convertible Preferred Stock.

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IN WITNESS WHEREOF, this Amended and Restated Certificate of Incorporation has been subscribed this 36th day of July, 2001 by the undersigned who affirms that the statements made herein are true and correct.

A handwritten signature in black ink, appearing to read 'Robert Feeney', written over a horizontal line.

Robert Feeney
President