

**TRADEMARK ASSIGNMENT**

Electronic Version v1.1  
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	CHANGE OF NAME

**CONVEYING PARTY DATA**

Name	Formerly	Execution Date	Entity Type
Advanced Medical Applications, Inc.		07/30/2002	CORPORATION: MINNESOTA

**RECEIVING PARTY DATA**

Name:	Celleration, Inc.
Street Address:	6570 Edenvale Boulevard
City:	Eden Prairie
State/Country:	MINNESOTA
Postal Code:	55346
Entity Type:	CORPORATION: MINNESOTA

**PROPERTY NUMBERS Total: 5**

Property Type	Number	Word Mark
Registration Number:	2777460	CELLERATION
Registration Number:	2774831	HEALING THROUGH ULTRASONIC INNOVATION
Registration Number:	2761633	CELLERATION MIST THERAPY SYSTEM
Registration Number:	2959715	MIST THERAPY
Registration Number:	3023075	

**CORRESPONDENCE DATA**

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CH \$140.00 2777460

ATTORNEY DOCKET NUMBER:	103514-0002
NAME OF SUBMITTER:	Emilia F. Cannella
Signature:	/e cannella/
Date:	09/05/2008

**Total Attachments: 22**

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**STATE OF MINNESOTA**

DEPARTMENT OF STATE

I hereby certify that this is a true and complete copy of the document as filed for record in this office.

DATED 12/7/07

Mark Ritchie

Secretary of State



By

Neil Storg

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AMENDED AND RESTATED  
ARTICLES OF INCORPORATION  
OF  
ADVANCED MEDICAL APPLICATIONS, INC.

The undersigned, Kevin Nickels, President and Chief Executive Officer of Advanced Medical Applications, Inc., a Minnesota corporation (the "Corporation"), hereby certifies that the following resolution was duly adopted by the shareholders and the Board of Directors of the Corporation pursuant to Chapter 302A of the Minnesota Business Corporation Act at a meeting of the Board of Directors held on July 20, 2002, and a special meeting of the shareholders held on July 30, 2002, and that such resolution has not been subsequently modified or rescinded:

WHEREAS, in connection with the issuance of its Series B convertible preferred stock, the Corporation desires to amend and restate its Articles of Incorporation; be it

RESOLVED, that the Articles of Incorporation of the Corporation are hereby amended and restated in their entirety to read as follows:

ARTICLE 1

The name of the Corporation is Celleration, Inc.

ARTICLE 2

The location and post office address of the registered office of the Corporation in this state shall be: 6570 Edenvale Boulevard, Eden Prairie, MN 55346.

ARTICLE 3

(A) Authorized Capital Stock.

(1) General. The aggregate number of shares of stock which the Corporation is authorized to issue is 60,000,000 shares, par value \$0.01 per share, of which 40,000,000 are designated as common shares (the "Common Stock") and 20,000,000 are designated as preferred shares, consisting of 166,666 Series A convertible preferred shares (the "Series A"), 9,000,000 Series B convertible preferred shares (the "Series B") (the Series A and Series B are referred to herein collectively as the "Designated Preferred Stock") and 10,833,334 preferred shares undesignated as to series (the "Undesignated Preferred Stock"). The Designated Preferred Stock and the Undesignated Preferred Stock are herein collectively referred to as the "Preferred Stock", and the shares of Common Stock and Preferred Stock are referred to herein collectively as the "capital stock."

All shares of Designated Preferred Stock which are acquired by the Corporation shall have the status of Undesignated Preferred Stock of the Corporation.

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(2) Authority Relative to Undesignated Preferred Stock. Authority is hereby expressly vested in the Board of Directors of the Corporation (the "Board of Directors"), subject to the provisions of this Article 3 and to limitations prescribed by law, to authorize the issuance from time to time of one or more series of Undesignated Preferred Stock and, with respect to each such series, to determine or fix, by resolution or resolutions adopted by the affirmative vote of a majority of the Board of Directors (including a majority of the Series B Directors (as defined below), if any, and Series A Director (as defined below), if any, considered in the aggregate) providing for the issue of such series, the voting powers, full or limited, if any, of the shares of such series and the designations, preferences and relative, participating, optional or other special rights and the qualifications, limitations or restrictions thereof, including, without limitation, the determination or fixing of the rates of and terms and conditions upon which any dividends shall be payable on such series, any terms under or conditions on which the shares of such series may be redeemed, any provision made for the conversion or exchange of the shares of such series for shares of any other class or classes or of any other series of the same or any other class or classes of the Corporation's capital stock, and any rights of the holders of the shares of such series upon the voluntary or involuntary liquidation, dissolution or winding up of the Corporation.

(3) Ranking. In addition to any priority herein set forth among the series of Designated Preferred Stock, the Series A and Series B shall, with respect to dividend rights and/or rights on liquidation, dissolution or winding up, whether voluntary or involuntary, rank:

- (a) on parity with any other series of Preferred Stock established hereafter by the Board of Directors (subject to any limitation otherwise provided herein), the terms of which specifically provide that such series shall rank on a parity with the Series A or Series B, as the case may be, with respect to dividend rights and/or rights on liquidation, dissolution or winding up, as the case may be (any such series of Preferred Stock to which the Series A or Series B, as the case may be, ranks on parity are collectively referred to herein as "Parity Securities");
- (b) junior to any other series of Preferred Stock established hereafter by the Board of Directors (subject to any limitation otherwise provided herein), the terms of which specifically provide that such series shall rank senior to the Series A or Series B, as the case may be, with respect to dividend rights and/or rights on liquidation, dissolution or winding up, as the case may be (all of such series of Preferred Stock to which the Series A or Series B, as the case may be, ranks junior are collectively referred to herein as "Senior Securities"); and
- (c) senior to the Common Stock with respect to dividend rights and/or rights on liquidation, dissolution or winding up, and senior to any other series of Preferred Stock established hereafter by the Board of Directors, the terms of which specifically provide that such series shall rank junior to the Series A or Series B, as the case may be, with respect to dividend rights and/or rights on liquidation, as the case may be, or which make no

designation as to rank (all of such series of Preferred Stock to which the Series A or Series B, as the case may be, ranks senior are collectively referred to herein as "Junior Securities").

(B) Voting Privileges.

(1) General. Each holder of Designated Preferred Stock shall have that number of votes on all matters submitted to the shareholders that is equal to the number of shares of Common Stock into which such holder's shares of Designated Preferred Stock are then convertible, as hereinafter provided. Fractional votes by the holders of Designated Preferred Stock shall not be permitted, and any fractional voting rights resulting from application of the conversion provisions set forth herein shall be rounded to the nearest whole number. Each holder of Common Stock shall have one vote on all matters submitted to the shareholders for each share of Common Stock standing in the name of such holder on the books of the Corporation. Except as otherwise provided herein, and except as otherwise required by agreement or law, the shares of capital stock of the Corporation shall vote as a single class on all matters submitted to the shareholders.

(2) Election of Directors. Unless otherwise provided with respect to any series of Preferred Stock hereinafter established by the Board of Directors:

- (a) the Board of Directors shall consist of not more than seven members;
- (b) the holders of the Series B, exclusively and voting as a single class, shall be entitled, by a vote of a majority of the outstanding shares of Series B held by such holders, to elect two of the directors of the Corporation (the "Series B Directors") and to exercise any right of removal or replacement of such directors;
- (c) the holders of the Series A, exclusively and voting as a single class, shall be entitled, by a vote of a majority of the total of the outstanding shares of Series A held by such holders, to elect one of the directors of the Corporation (the "Series A Director") and to exercise any right of removal or replacement of such director;
- (d) the holders of the Common Stock, exclusively and voting as a single class, shall be entitled, by a vote of a majority of the outstanding shares of Common Stock held by such holders, to elect two of the directors of the Corporation (the "Common Directors") and to exercise any right of removal or replacement of such directors; and
- (e) the holders of the Series B, Series A, any Parity Securities, any Junior Securities and the Common Stock, voting together as a single class, shall be entitled, by a vote of a majority of the outstanding shares of Series B, Series A, Parity Securities, Junior Securities and Common Stock held by such holders, to elect two of the directors of the Corporation (the "At Large Directors") and to exercise any right of removal or replacement of such directors.

Notwithstanding the foregoing, (A) in the event and at such time that there are no longer at least 1,875,578 shares (appropriately adjusted to reflect stock splits, stock dividends, reorganizations, consolidations and similar changes hereafter effected relative to the Series B) of Series B outstanding, the right of the holders of Series B set forth in Article 3(B)(2)(b) above shall thereafter be the right of the holders of the Series B, Series A, any Parity Securities, any Junior Securities and the Common Stock, voting together as a single class, to elect two members of the Board of Directors, and (B) in the event and at such time that there are no longer at least 26,667 shares (appropriately adjusted to reflect stock splits, stock dividends, reorganizations, consolidations and similar changes hereafter effected relative to the Series A) of Series A outstanding, the right of the holders of Series A set forth in Article 3(B)(2)(c) above shall thereafter be the right of the holders of the Series B, Series A, any Parity Securities, any Junior Securities and the Common Stock, voting together as a single class, to elect one member of the Board of Directors.

(3) Additional Class Votes by Series B. In addition to any other vote required under applicable law, without the affirmative vote or written consent of the holders (acting together as a class) of a majority of the shares of Series B at the time outstanding, the Corporation shall not:

- (a) amend the Articles of Incorporation or Bylaws of the Corporation so as to alter any right, preference or privilege of the Series B set forth in the Articles of Incorporation or Bylaws of the Corporation or waive any of the rights of the Series B set forth therein; or
- (b) authorize or issue any additional shares of Series B, or reduce or increase the number of authorized shares of Series B.

(4) Additional Class Votes by Series A. In addition to any other vote required under applicable law, without the affirmative vote or written consent of the holders (acting together as a class) of a majority of the shares of Series A at the time outstanding, the Corporation shall not:

- (a) amend the Articles of Incorporation or Bylaws of the Corporation so as to alter any right, preference or privilege of the Series A set forth in the Articles of Incorporation or Bylaws of the Corporation or waive any of the rights of the Series A set forth therein; or
- (b) authorize or issue any additional shares of Series A, or reduce or increase the number of authorized shares of Series A.

(5) Additional Class Votes by Series A and Series B. In addition to any other vote required under applicable law, without the affirmative vote or written consent of the holders of a majority of the shares of Series A and Series B at the time outstanding, acting together as a single class, the Corporation shall not:

- (a) authorize or issue any Senior Securities with respect to the Series A or Series B, or any Parity Securities with respect to the Series A or Series B (other than Parity Securities in respect of payment of dividends); or

- (b) pay or declare, or authorize the payment or declaration of, any dividend on capital stock other than the Series A or Series B or purchase, redeem or otherwise acquire for any consideration, or set aside as a sinking fund or other fund for the redemption or repurchase of, any shares of capital stock other than the Series A or Series B (other than redemption pursuant to employment agreements approved by the Board of Directors, including a majority of the Series B Directors, if any, and Series A Director, if any, considered in the aggregate); or
- (c) sell, lease, license on an exclusive basis, or otherwise dispose of all or substantially all of the assets of the Corporation or of any subsidiary of the Corporation, or any asset or assets the disposition of which will have a material effect upon the business or financial condition of the Corporation or any subsidiary of the Corporation, or consolidate with or merge into any other corporation or entity, or permit any other corporation or entity to consolidate or merge into the Corporation or any subsidiary of the Corporation, or enter into a plan of exchange with any other corporation or entity, except that any subsidiary of the Corporation may merge into another subsidiary or into the Corporation; or
- (d) increase or decrease the authorized number of members of the Board of Directors; or
- (e) liquidate or dissolve the Corporation or otherwise wind up its affairs.

(C) Dividends and Distributions.

(1) Series B. From and after the issuance thereof, the holders of outstanding Series B shall be entitled to receive non-cumulative cash dividends at the annual rate of \$0.073 per share of Series B (appropriately adjusted to reflect stock splits, stock dividends, reorganizations, consolidations and similar changes hereafter effected relative to the Series B), when, as and if declared by the Board of Directors (the "Series B Dividend") on a pari passu basis with the Series A Dividend (as defined below). Such Series B Dividend shall be payable after payment of any distributions (as defined below) on any Senior Securities that are senior in respect of payment of dividends, and before any distributions on any shares of Junior Securities that are junior in respect of payment of dividends and Common Stock. Such distributions may be payable quarterly or otherwise as the Board of Directors may from time to time determine. Distributions may be declared and paid upon Junior Securities and shares of Common Stock in any fiscal year of the Corporation only if the Series B Dividend and the Series A Dividend shall have been paid from the date of issue through the quarter in which such distributions upon Junior Securities and Common Stock are declared. The amount of the Series B Dividend for any period shorter or longer than a full year shall be computed on the basis of 30-day months and a 360-day year.

(2) Series A. From and after the issuance thereof, the holders of outstanding Series A shall be entitled to receive non-cumulative cash dividends at the annual rate of \$1.20 per share of Series A (appropriately adjusted to reflect stock splits, stock dividends, reorganizations, consolidations and similar changes hereafter effected relative to the Series A), when, as and if

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declared by the Board of Directors (the "Series A Dividend"), on a pari passu basis with the Series B Dividend. Such Series A Dividend shall be payable after payment of any distributions on any Senior Securities that are senior in respect of payment of dividends, and before any distributions on any shares of Junior Securities that are junior in respect of payment of dividends and Common Stock. Such distributions may be payable quarterly or otherwise as the Board of Directors may from time to time determine. Distributions may be declared and paid upon Junior Securities and shares of Common Stock in any fiscal year of the Corporation only if the Series B Dividend and the Series A Dividend shall have been paid from the date of issue through the quarter in which such distributions upon Junior Securities and Common Stock are declared. The amount of dividends payable on the Series A for any period shorter or longer than a full year shall be computed on the basis of 30-day months and a 360-day year.

For purposes of Article 3(C)(1) and (2), unless the context otherwise requires, "distribution" shall mean the transfer of cash or property without consideration, whether by way of dividend or otherwise, payable other than in Common Stock, or the purchase or redemption of shares of the Corporation (other than repurchases of Common Stock held by employees or consultants of the Corporation upon termination of their employment or services pursuant to agreements providing for such repurchase) for cash or property, including any such transfer, purchase or redemption by a subsidiary of the Corporation.

(3) Other. Subject to the terms of any Senior Securities, dividends shall be payable on the Designated Preferred Stock and any Parity Securities out of funds legally available for the declaration of dividends, only if and when declared by the Board of Directors. In no event shall any dividend be paid or declared, nor shall any distribution be made, on the Common Stock or any Junior Securities, unless holders of Designated Preferred Stock and any Parity Securities shall participate in such dividend on a pro rata basis with the holders of Common Stock, counting shares of Designated Preferred Stock and any Parity Securities on an as-if-converted basis.

(D) Liquidation.

(1) Liquidation Preference of Series B. In the event of an involuntary or voluntary liquidation, dissolution or winding up of the Corporation at any time, the holders of shares of Series B then outstanding shall be entitled, after any Senior Securities that are senior to the Series B in respect of liquidation or dissolution and subject to Article III(D)(3) below, to receive out of the assets of the Corporation an amount equal to \$1.82 per share of Series B (appropriately adjusted to reflect stock splits, stock dividends, reorganizations, consolidations and similar changes hereafter effected relative to the Series B (the "Series B Base Liquidation Amount")), plus an amount in cash equal to the sum of any declared but unpaid dividends thereon, to and including the date fixed for liquidation (which amount together with the Series B Base Liquidation Amount is herein referred to as the "Series B Liquidation Amount").

(2) Liquidation Preference of Series A. In the event of an involuntary or voluntary liquidation, dissolution or winding up of the Corporation at any time, the holders of shares of Series A then outstanding shall be entitled, after any Senior Securities that are senior in respect of the Series A in respect of liquidation or dissolution and subject to Article III(D)(3) below, to

receive out of the assets of the Corporation an amount equal to \$15.00 per share of Series A (appropriately adjusted to reflect stock splits, stock dividends, reorganizations, consolidations and similar changes hereafter effected relative to the Series A (the "Series A Base Liquidation Amount")), plus an amount in cash equal to the sum of any declared but unpaid dividends thereon, to and including the date fixed for liquidation (which amount together with the Series A Base Liquidation Amount is herein referred to as the "Series A Liquidation Amount").

(3) Relative Liquidation Preferences of Series B and Series A. Subject to any senior rights in respect of liquidation, dissolution or winding up of any Senior Securities, and any rights in respect of liquidation or dissolution of any Parity Securities, in the event of either an involuntary or a voluntary liquidation or dissolution of the Corporation, (i) payment of the first 50% of the Series B Liquidation Amount and 100% of the Series A Liquidation Amount shall be made to the holders of shares of Series B and Series A, respectively (the "A and B Initial Preference") before any payment of the Second B Preference (as defined below), and before any payment shall be made or any assets distributed to the holders of any Junior Securities in respect of the Series B or Series A in liquidation, dissolution or winding up or to the holders of Common Stock in liquidation, dissolution or winding up, and (ii) payment of the second 50% of the Series B Liquidation Amount (the "Second B Preference") shall be made to the holders of shares of Series B before any payment shall be made or any assets distributed to the holders of any Junior Securities in respect of the Series B in liquidation, dissolution or winding up or to the holders of Common Stock in liquidation, dissolution or winding up. If upon any liquidation, dissolution or winding up of the Corporation the assets available for distribution shall be insufficient to pay the holders of all outstanding shares of Series B and Series A in liquidation the full amount of the A and B Initial Preference, the holders of the Series A and Series B shall share pro rata, based on the ratio that the first 50% of the Series B Liquidation Amount or the Series A Liquidation Amount, as the case may be, bears to the aggregate A and B Initial Preference, and thereafter any remaining Series B shares and any Parity Securities in respect of the Series B in liquidation shall share pro rata, based on the aggregate liquidation amounts to which each class is so entitled, in any such distribution.

(4) Deemed Liquidation. The merger or consolidation of the Corporation into or with another corporation in which the shareholders of the Corporation shall own less than 50% of the voting securities of the surviving corporation or the sale, transfer or lease (but not including a transfer or lease by pledge or mortgage to a bona fide lender) of all or substantially all of the assets of the Corporation shall be deemed, solely for purposes of determining the amounts to be received by the holders of any shares of capital stock in liquidation and for purposes of determining the priority of receipt of such amounts as among the holders of such shares to be a liquidation, dissolution or winding up of the Corporation as those terms are used in this Article 3(D) if the holders of a majority of the outstanding shares of each series of Preferred Stock so affected, each voting separately as a class, so elect by giving written notice thereof to the Corporation at least two days before the effective date of such transaction.

(5) Common Stock. In the event of any liquidation, dissolution, or winding up of the Corporation, either voluntary or involuntary, after payment of any amounts required to be paid under this Article 3(D) to the Series B, Series A and any other Senior Securities that are senior to the Common Stock in respect of liquidation, dissolution or winding up of the Corporation any

remaining amounts shall be distributed to the holders of the Common Stock then outstanding and any Parity Securities in respect of the Common Stock in liquidation, out of the assets and surplus funds of the Corporation.

(6) Conversion Rights Unaffected. Nothing in this Article 3(D) shall affect in any way the right of each holder of shares of Series A and Series B to convert such shares at any time and from time to time in accordance with any of Articles 3(F) and (G) below. In lieu of receiving the Series A Liquidation Amount or the Series B Liquidation Amount, as the case may be, upon a liquidation, dissolution or winding up of the Corporation pursuant to this Article 3(D), the holders of the Series A and the Series B may convert their shares of Series A and Series B, as the case may be, into Common Stock in accordance with Articles 3(F) and (G) below, and thereby receive with the holders of the Common Stock any distributions thereto in connection with the transaction.

(E) Redemption of Series B.

(1) Redemption Offer. On July \_\_, 2008 \*[sixth anniversary date], the Corporation will offer to redeem all of the Series B by written notice (the "Redemption Notice") to each of the registered holders of the Series B. Such offer will be on the terms and subject to the conditions contained in this Article 3(E), and the Redemption Notice will make reference to this Article 3(E) or any successor provision, which will be deemed to be incorporated therein by reference. Each registered holder of Series B as of the close of business on July \_\_, 2008 \*[sixth anniversary date] shall have the right, exercisable by written notice of exercise given to the Corporation in accordance with Article 3(E)(4) below, to redeem all or any of the Series B then held by such holder at the price, in the manner and on the terms specified in this Article 3(E).

(2) Timing of Redemptions. Upon receipt by the Corporation of a redemption request by a registered holder of shares of Series B, as specified under Article 3(E)(4) below, the Corporation will redeem such shares as follows. Redemption of the shares that each holder has requested be redeemed in accordance with Article 3(E)(4) will be made on two separate dates, with 50% of the shares so requested for redemption being redeemed as soon as practicable after receipt by the Corporation of such holder's written request for redemption (such date of payment being referred to herein as the "Initial Redemption Date"), and the remaining 50% of such shares being redeemed on the first anniversary of such Initial Redemption Date (each of the Initial Redemption Date and such anniversary date being referred to herein as a "Redemption Date"). Notwithstanding the foregoing, the Corporation may only make such redemptions out of funds legally available therefore.

(3) Redemption Price. The price at which such shares of Series B so requested for redemption will be redeemed shall be equal to \$0.91 per share of Series B plus an amount equal to eight percent (8%) of \$0.91 per share (appropriately adjusted to reflect stock splits, stock dividends, reorganizations, consolidations and similar changes hereafter effected relative to the Series B), compounded annually, and accruing on a daily basis (computed on the basis of 30-day months and a 360-day year) from the date of issuance of each such share until the respective Redemption Date. Payment will be made by the Corporation to the requesting holder by wire transfer of immediately available funds to such account or accounts as such holder shall specify

in writing to the Corporation, or by such other method or such other means as the holder and the Corporation agree on.

(4) Request for Redemption. Any holder of shares of Series B that elects to accept the Corporation's offer to redeem its shares of Series B under this Article 3(E) shall deliver to the Corporation, at its principal offices, a written request for such redemption within 15 business days of its receipt of the Redemption Notice, specifying the initial date upon which the holder desires the first 50% of such shares to be redeemed by the Corporation (which date shall be no less than 30 days after the date of receipt of such Redemption Notice) and the aggregate number of shares of Series B to be redeemed on both Redemption Dates. If any such holder elects not to redeem any of the Series B for which it is the registered holder within such 15 business day period, the right of redemption under this Article 3(E) will thereafter expire with respect only to those shares of Series B which such registered holder did not validly exercise its right of redemption hereunder.

(5) Actions on Redemption. On each applicable Redemption Date, each electing holder shall surrender to the Corporation the certificates representing the shares so redeemed, duly endorsed or assigned to the Corporation, and the holder shall thereafter be entitled to receive payment of the redemption price for such shares. If, on the respective Redemption Date, the Corporation lacks access to legally sufficient funds such that fewer than all of the outstanding shares of Series B to be redeemed on the applicable Redemption Date can be redeemed, shares to be redeemed shall be redeemed by the Corporation pro rata. Thereafter, the Corporation shall (i) take any action necessary or appropriate, to the extent reasonably within its control, to remove promptly any impediments to its ability to redeem the total number of shares of Series B required to be redeemed including incurring any indebtedness, not prohibited by contract or otherwise, necessary to make such redemption; (ii) in any event, use any funds that are legally available to redeem the maximum possible number of such shares from the holders of such shares to be redeemed in proportion to the respective number of such shares that otherwise would have been redeemed if all such shares had been redeemed in full, and (iii) as and to the extent that legally available funds for the redemption thereof exist from time to time, redeem additional shares of Series B pro rata as among the holders thereof, until all shares of Series B required by this Article 3(E)(5) to be redeemed have been redeemed. If fewer than all the shares represented by any certificate are redeemed, the Corporation shall issue a new certificate representing the unredeemed shares.

(6) Status of Redeemed Shares. As of the applicable Redemption Date, (i) shares of Series B redeemed on such Redemption Date shall be deemed no longer outstanding, and (ii) all rights of such holder as a holder of Series B shares (except the right to receive from the Corporation the consideration payable upon redemption upon surrender of the certificates evidencing such shares) shall cease only with respect to the shares of Series B redeemed; provided, however, if any shares of Series B are not redeemed on their respective Redemption Date for any reason other than the failure of such holder of Series B requesting redemption to comply fully with its obligations in this Article 3(E), all such unredeemed shares shall remain outstanding and be entitled to all the rights and preferences provided herein.

(7) Election Irrevocable. An election by a holder to redeem shares of Series B may be revoked by such holder with respect to all or any shares not yet redeemed at any time prior to

the close of business on the business day preceding the applicable Redemption Date. An election by a holder to redeem shares of Series B shall become irrevocable on the close of business on the business day preceding the applicable Redemption Date; provided, however, that in the event such shares are not redeemed on such Redemption Date for any reason other than the failure of such holder to comply fully with its obligations in this Article 3(E), such election shall be revocable until such redemption occurs.

(8) Conversion Right. Notwithstanding the previous delivery by any holder of shares of Series B of a redemption election notice under Article 3(E)(4) above, if, prior to the close of business on the business day preceding any applicable Redemption Date, such holder gives written notice to the Corporation of its election to convert, pursuant to Article 3(F) hereof, then the conversion of such shares which would otherwise have been redeemed shall become effective as provided in Article 3(F) hereof, and the redemption election notice shall be deemed withdrawn and of no effect.

(9) Deposit of Redemption Price. If the Corporation deposits, on or prior to any date fixed for redemption of shares of Series B with any bank or trust company having capital and surplus of at least \$10,000,000, as a trust fund, a sufficient sum to redeem, on the applicable Redemption Dates, the shares then called for redemption, with instructions and authority to such bank or trust company to pay the redemption price on or after the applicable Redemption Dates or prior thereto upon the surrender of the certificates representing the shares then being redeemed, then and from and after the date of such deposit, and notwithstanding that any certificate for shares to be redeemed shall not have been surrendered for cancellation, the shares to be redeemed shall no longer be deemed to be outstanding and all rights with respect thereto shall forthwith cease and terminate, except only the right of the holders thereof to receive from such bank or trust company, at any time after the date of such deposit, the sum so deposited, without interest, and the right to convert such shares as provided in Article 3(F) below (subject to Article 3(E)(8) above). Any funds so deposited and unclaimed at the end of four years from any applicable Redemption Date shall be released or repaid to the Corporation, after which the holders of the shares so called for redemption shall be entitled to receive payment of the redemption price only from the Corporation.

(F) Optional Conversion Right of the Series B and Series A.

At the option of the holders thereof, the shares of Series B or Series A, as the case may be, shall be convertible, at the office of the Corporation (or at such other office or offices, if any, as the Board of Directors may designate), into fully paid and nonassessable shares (calculated as to each conversion to the nearest 1/100th of a share) of Common Stock of the Corporation, at the conversion price, determined as hereinafter provided, in effect at the time of conversion with each share of Series B being deemed to have a value of \$0.91 for the purpose of such conversion and each share of Series A being deemed to have a value of \$15.00 for the purpose of such conversion. The price at which shares of Common Stock shall be delivered upon conversion (the "Series B Conversion Price") of Series B shall be initially \$0.91 per share of Common Stock (i.e., at an initial conversion rate of one share of Common Stock for each share of Series B) and the price at which shares of Common Stock shall be delivered upon conversion (the "Series A Conversion Price") of Series A shall be initially \$15.00 per share of Common Stock (i.e., at an initial conversion rate of one share of Common Stock for each share of Series

A), provided, however, that such initial Series B Conversion Price and Series A Conversion Price shall be subject to adjustment from time to time in certain instances as hereinafter provided. The following provisions shall govern such right of conversion:

(1) In order to convert shares of Series B or Series A into shares of Common Stock of the Corporation, the holder thereof shall surrender at the principal office of the Corporation the certificate or certificates therefor, duly endorsed to the Corporation or in blank, and give written notice to the Corporation at such office that such holder elects to convert such shares. Shares of Series B or Series A shall be deemed to have been converted immediately prior to the close of business on the day of the surrender of such shares for conversion as herein provided, and the person entitled to receive the shares of Common Stock of the Corporation issuable upon such conversion shall be treated for all purposes as the record holder of such shares of Common Stock at such time. As promptly as practicable on or after the conversion date, the Corporation shall issue and deliver or cause to be issued and delivered at such office a certificate or certificates for the number of shares of Common Stock of the Corporation issuable upon such conversion.

(2) The Series B Conversion Price and Series A Conversion Price shall be subject to adjustment from time to time as hereinafter provided. Upon each adjustment of the Series B Conversion Price or Series A Conversion Price, as the case may be, each holder of shares of Series B or Series A shall thereafter be entitled to receive the number of shares of Common Stock of the Corporation obtained by multiplying the Series B Conversion Price or Series A Conversion Price, as the case may be, in effect immediately prior to such adjustment by the number of shares issuable pursuant to conversion immediately prior to such adjustment and dividing the product thereof by the Series B Conversion Price or Series A Conversion Price, as the case may be, resulting from such adjustment.

(3) Except for (i) options to purchase shares of Common Stock and the issuance of awards of Common Stock, in either case, issued after June 30, 2002, pursuant to employee and consultant benefit plans adopted by the Corporation in an aggregate amount not exceeding 1,291,575 shares of Common Stock (appropriately adjusted to reflect stock splits, stock dividends, reorganizations, consolidations and similar changes hereafter effected relative to the Common Stock) and shares of Common Stock issued upon the exercise of such options granted pursuant to such plans, (ii) options to purchase 40,480 shares of Common Stock and the issuance of awards of Common Stock (appropriately adjusted to reflect stock splits, stock dividends, reorganizations, consolidations and similar changes hereafter effected relative to the Common Stock), in either case issued prior to June 30, 2002 pursuant to the Corporation's 2000 Stock Option Incentive Plan and shares of Common Stock issued upon the exercise of such options, (iii) warrants to purchase shares of Common Stock issued to shareholders, employees, ex-employees or consultants of the Company prior to June 30, 2002, and shares of Common Stock issued upon the exercise of such warrants, (iv) warrants to purchase 106,250 shares of Series B to be issued to Tyco Sigma Limited, or its affiliates, in connection with the initial sale and issuance of the Series B, and shares of Series B issued upon the exercise of such warrants, (v) the issuance of shares of Common Stock upon conversion of the Series A or Series B, (vi) warrants to purchase shares of Common Stock or Preferred Stock issued in connection with bona fide financing transactions (including, without limitation, equipment financing arrangements and bank lines of credit) approved by the Board of Directors, including a majority of the Series B

Directors, if any, and the Series A Director, if any, together with shares of Common Stock or Preferred Stock issued upon exercise of such warrants, (vii) securities issued pursuant to the acquisition of all or part of another company by the Corporation by merger or other reorganization, or by purchase of all or part of the assets of another entity, pursuant to a plan, agreement or arrangement approved by a majority of the Board of Directors, including a majority of the Series B Directors, if any, and the Series A Director, if any, and (viii) such other issuances of shares of capital stock of the Corporation as to which the provisions of this Article 3(F) may be waived by the affirmative vote of the holders of at least a majority of the then outstanding shares of Series B, voting as a single class, with respect only to the Series B, and at least a majority of the then outstanding Series A, voting as a single class, with respect only to the Series A, if and whenever the Corporation shall issue or sell any shares of its Common Stock for a consideration per share less than the Series B Conversion Price or the Series A Conversion Price, as the case may be, in effect immediately prior to the time of such issue or sale, then, forthwith upon such issue or sale, the Series B Conversion Price or the Series A Conversion Price, as the case may be, shall be reduced to the price (calculated to the nearest cent) determined by dividing

- (X) an amount equal to the sum of (1) the number of shares of Common Stock outstanding immediately prior to such issue or sale multiplied by the then existing Series B Conversion Price or Series A Conversion Price, as the case may be, and (2) the consideration, if any, received by the Corporation upon such issue or sale, by
- (Y) an amount equal to the sum of (1) the number of shares of Common Stock outstanding immediately prior to such issue or sale and (2) the number of shares of Common Stock thus issued or sold.

Solely for purposes of (X) and (Y) above, the term "Common Stock outstanding" shall include those shares of Common Stock issuable upon conversion of outstanding shares of Preferred Stock and upon exercise of outstanding options and warrants of the Corporation.

For the purposes of this Article 3(F)(3), the following provisions (a) to (e), inclusive, shall also be applicable:

- (a) In case at any time the Corporation shall grant (whether directly or by assumption in a merger or otherwise) any rights to subscribe for or to purchase, or any options for the purchase of, (i) Common Stock or (ii) any obligations or any shares of stock of the Corporation which are convertible into, or exchangeable for, Common Stock (any of such obligations or shares of stock being hereinafter called "Convertible Securities") whether or not such rights or 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 rights or options or upon conversion or exchange of such Convertible Securities (determined by dividing (x) the total amount, if any, received or receivable by the Corporation as consideration for the granting of such rights or options, plus the minimum aggregate amount of additional

consideration payable to the Corporation upon the exercise of such rights or options, plus, in the case of such rights or options which relate to Convertible Securities, the minimum aggregate amount of additional consideration, if any, payable upon the issue of such Convertible Securities and upon the conversion or exchange thereof, by (y) the total maximum number of shares of Common Stock issuable upon the exercise of such rights or options or upon the conversion or exchange of all such Convertible Securities issuable upon the exercise of such rights or options) shall be less than the applicable conversion price in effect immediately prior to the time of the granting of such rights or options, then the total maximum number of shares of Common Stock issuable upon the exercise of such rights or options or upon conversion or exchange of the total maximum amount of such Convertible Securities issuable upon the exercise of such rights or options shall (as of the date of granting of such rights or options) be deemed to have been issued for such price per share. Except as provided in Article 3(F)(6) below, no further adjustments of the applicable conversion price shall be made upon the actual issue of such Common Stock or of such Convertible Securities upon exercise of such rights or options or upon the actual issue of such Common Stock upon conversion or exchange of such Convertible Securities.

- (b) In case the Corporation shall issue or sell (whether directly or by assumption in a merger or otherwise) any Convertible Securities, whether or not the rights to exchange or convert thereunder are immediately exercisable, and the price per share for which Common Stock is issuable upon such conversion or exchange (determined by dividing (x) 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 (y) 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 applicable 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 (as of the date of the issue or sale of such Convertible Securities) be deemed to be outstanding and to have been issued for such price per share, provided that (a) except as provided in Article 3(F)(6) below, no further adjustments of the applicable 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 rights to subscribe for or to purchase or any option to purchase any such Convertible Securities for which adjustments of the applicable conversion price have been or are to be made pursuant to other provisions of this Article 3(F)(3), no further



adjustment of the applicable conversion price shall be made by reason of such issue or sale.

- (c) In case any shares of Common Stock or Convertible Securities or any rights or options to purchase any such Common Stock 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 deducting therefrom any expenses incurred or any underwriting commissions, discounts or concessions paid or allowed by the Corporation in connection therewith. In case any shares of Common Stock or Convertible Securities or any rights or options to purchase any such Common Stock 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 by the Board of Directors of the Corporation, without deducting therefrom any expenses incurred or any underwriting commissions, discounts or concessions paid or allowed by the Corporation in connection therewith. In case any shares of Common Stock or Convertible Securities or any rights or options to purchase such Common Stock or Convertible Securities shall be issued in connection with any merger or consolidation in which the Corporation is the surviving corporation, the amount of consideration therefor shall be deemed to be the fair value as determined by the Board of Directors of the Corporation of such portion of the assets and business of the non-surviving corporation or corporations as such Board shall determine to be attributable to such Common Stock, Convertible Securities, rights or options, as the case may be. In the event of any consolidation or merger of the Corporation in which the Corporation is not the surviving corporation or in the event of any sale of all or substantially all of the assets of the Corporation for stock or other securities of any other corporation, the Corporation shall be deemed to have issued a number of shares of its Common Stock for stock or securities of the other corporation computed on the basis of the actual exchange ratio on which the transaction was predicated and for a consideration equal to the fair market value on the date of such transaction of such stock or securities of the other corporation, and if any such calculation results in adjustment of the Series B Conversion Price or the Series A Conversion Price, as the case may be, the determination of the number of shares of Common Stock issuable upon conversion immediately prior to such merger, conversion or sale, for purposes of Article 3(F)(7) below, shall be made after giving effect to such adjustment of the applicable conversion price.
- (d) In case the Corporation shall take a record of the holders of its Common Stock for the purpose of entitling them (a) to receive a dividend or other distribution payable in Common Stock or in Convertible Securities, or in any rights or options to purchase any Common Stock or Convertible

Securities, or (b) to subscribe for or purchase Common Stock 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 rights of subscription or purchase, as the case may be.

- (e) 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 Article 3(F)(3).

(4) In case the Corporation shall (i) declare a dividend upon the Common Stock payable in Common Stock (other than a dividend declared to effect a subdivision of the outstanding shares of Common Stock, as described in Article 3(F)(5) below) or Convertible Securities, or in any rights or options to purchase Common Stock or Convertible Securities, or (ii) declare any other dividend or make any other distribution upon the Common Stock payable otherwise than out of earnings or earned surplus, then thereafter each holder of shares of Series B or Series A, as the case may be, upon the conversion thereof will be entitled to receive the number of shares of Common Stock into which such shares of Series B or Series A, as the case may be, have been converted, and, in addition and without payment therefor, each dividend described in clause (i) above and each dividend or distribution described in clause (ii) above which such holder would have received by way of dividends or distributions if continuously since such holder became the record holder of such shares of Series B or Series A, as the case may be, such holder (i) had been the record holder of the number of shares of Common Stock then received, and (ii) had retained all dividends or distributions in stock or securities (including Common Stock or Convertible Securities, and any rights or options to purchase any Common Stock or Convertible Securities) payable in respect of such Common Stock or in respect of any stock or securities paid as dividends or distributions and originating directly or indirectly from such Common Stock. For the purposes of the foregoing a dividend or distribution other than in cash shall be considered payable out of earnings or earned surplus only to the extent that such earnings or earned surplus are charged an amount equal to the fair value of such dividend or distribution as determined by the Board of Directors of the Corporation.

(5) In case the Corporation shall at any time subdivide its outstanding shares of Common Stock into a greater number of shares, the Series B Conversion Price and Series A Conversion Price in effect immediately prior to such subdivision shall be proportionately reduced, and conversely, in case the outstanding shares of Common Stock of the Corporation shall be combined into a smaller number of shares, the Series B Conversion Price and Series A Conversion Price in effect immediately prior to such combination shall be proportionately increased, effective as of the close of business on the date of such subdivision or combination, as the case may be.

(6) If (i) the purchase price provided for in any right or option referred to in clause (a) of Article 3(F)(3), or (ii) the additional consideration, if any, payable upon the conversion or exchange of Convertible Securities referred to in clause (a) or clause (b) of Article 3(F)(3), or

(iii) the rate at which any Convertible Securities referred to in clause (a) or clause (b) of Article 3(F)(3) are convertible into or exchangeable for Common Stock, shall change at any time (other than under or by reason of provisions designed to protect against dilution), the Series B Conversion Price and Series A Conversion Price then in effect hereunder shall forthwith be increased or decreased to such Series B Conversion Price or Series A Conversion Price as would have obtained had the adjustments made upon the issuance of such rights, options or Convertible Securities been made upon the basis of (a) the issuance of the number of shares of Common Stock theretofore actually delivered upon the exercise of such options or rights or upon the conversion or exchange of such Convertible Securities, and the total consideration received therefor, and (b) the issuance at the time of such change of any such options, rights, or Convertible Securities then still outstanding for the consideration, if any, received by the Corporation therefor and to be received on the basis of such changed price; and on the expiration of any such option or right or the termination of any such right to convert or exchange such Convertible Securities, the Series B Conversion Price and Series A Conversion Price then in effect hereunder shall forthwith be increased to such Series B Conversion Price or Series A Conversion Price, as the case may be, as would have obtained had the adjustments made upon the issuance of such rights or options or Convertible Securities been made upon the basis of the issuance of the shares of Common Stock theretofore actually delivered (and the total consideration received therefor) upon the exercise of such rights or options or upon the conversion or exchange of such Convertible Securities. If the purchase price provided for in any right or option referred to in clause (a) of Article 3(F)(3), or the rate at which any Convertible Securities referred to in clause (a) or clause (b) of Article 3(F)(3) are convertible into or exchangeable for Common Stock, shall decrease at any time under or by reason of provisions with respect thereto designed to protect against dilution, then in case of the delivery of Common Stock upon the exercise of any such right or option or upon conversion or exchange of any such Convertible Security, the Series B Conversion Price and the Series A Conversion Price then in effect hereunder shall forthwith be decreased to such Series B Conversion Price or Series A Conversion Price, as the case may be, as would have obtained had the adjustments made upon the issuance of such right, option or Convertible Security been made upon the basis of the issuance of (and the total consideration received for) the shares of Common Stock delivered as aforesaid.

(7) If any capital reorganization or reclassification of the capital stock of the Corporation, or consolidation or merger of the Corporation with another corporation, or the sale of all or substantially all of its assets to another 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, reclassification, consolidation, merger or sale and subject to Article 3(D) above, lawful and adequate provision shall be made whereby the holders of Series B and Series A shall thereafter have the right to receive upon the basis and upon the terms and conditions specified herein and in lieu of the shares of the Common Stock of the Corporation immediately theretofore receivable upon the conversion of Series B or Series A, as the case may be, 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 stock immediately theretofore receivable upon the conversion of Series B or Series A, as the case may be, had such reorganization, reclassification, consolidation, merger or sale not taken place, plus all dividends

unpaid and accumulated or accrued thereon to the date of such reorganization, reclassification, consolidation, merger or sale, and in any such case appropriate provision shall be made with respect to the rights and interests of the holders of Series B and Series A to the end that the provisions hereof (including without limitation provisions for adjustments of the Series B Conversion Price and the Series A Conversion Price and of the number of shares receivable upon the conversion of Series B or Series A, as the case may be) shall thereafter be applicable, as nearly as may be in relation to any shares of stock, securities or assets thereafter receivable upon the conversion of Series B and Series A, as the case may be. The Corporation shall not effect any such consolidation, merger or sale, unless prior to the consummation thereof the successor corporation (if other than the Corporation) resulting from such consolidation or merger or the Corporation purchasing such assets shall assume by written instrument executed and mailed to the registered holders of Series B and Series A, at the last addresses of such holders appearing on the books of the Corporation, the obligation to deliver to such holders such shares of stock, securities or assets as, in accordance with the foregoing provisions, such holders may be entitled to receive.

(8) Within a reasonable period of time following any adjustment of the Series B Conversion Price or the Series A Conversion Price, then and in each case the Corporation shall give written notice thereof, by first-class mail, postage prepaid (or, in the case of international addresses, by nationally recognized overnight courier) addressed to the registered holders of Series B or Series A, as the case may be, at the addresses of such holders as shown on the books of the Corporation, which notice shall state the Series B Conversion Price or the Series A Conversion Price resulting from such adjustment and the increase or decrease, if any, in the number of shares receivable at such price upon the conversion of Series B or Series A, as the case may be, setting forth in reasonable detail the method of calculation and the facts upon which such calculation is based.

(9) In case at any time:

- (a) the Corporation shall declare any cash dividend on its Common Stock at a rate in excess of the rate of the last cash dividend theretofore paid;
- (b) the Corporation shall pay any dividend payable in stock upon its Common Stock or make any distribution (other than regular cash dividends) to the holders of its Common Stock;
- (c) 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;
- (d) there shall be any capital reorganization, or reclassification of the capital stock of the Corporation, or consolidation or merger of the Corporation with, or sale of all or substantially all of its assets to, another corporation; or
- (e) 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 written notice, by first-class mail, postage prepaid (or, in the case of international addresses, by nationally recognized overnight courier), addressed to the registered holders of Series B and Series A at the addresses of such holders as shown on the books of the Corporation, of the date on which (i) the books of the Corporation shall close or a record shall be taken for such dividend, distribution or subscription rights, or (ii) such reorganization, reclassification, consolidation, merger, sale, dissolution, liquidation or winding up shall take place, as the case may be. Such notice shall also specify the date as of which the holders of Common Stock of record shall participate in such dividend, distribution or subscription rights, or shall be entitled to exchange their Common Stock for securities or other property deliverable upon such reorganization, reclassification, consolidation, merger, sale, dissolution, liquidation, or winding up, as the case may be. Such written notice shall be given at least 20 days prior to the action in question and not less than 20 days prior to the record date or the date on which the Corporation's transfer books are closed in respect thereto.

(10) If any event occurs as to which, in the opinion of the Board of Directors of the Corporation (in its sole discretion), the other provisions of this Article 3(F) are not strictly applicable or if strictly applicable would not fairly protect the rights of the holders of Series B or Series A in accordance with the essential intent and principles of such provisions, then the Board of Directors shall make an adjustment in the application of such provisions, in accordance with such essential intent and principles, so as to protect such rights as aforesaid.

(11) No fractional shares of Common Stock shall be issued upon conversion, but, instead of any fraction of a share which would otherwise be issuable, the Corporation shall pay a cash adjustment in respect of such fraction in an amount equal to the same fraction of the market price per share of Common Stock as of the close of business on the day of conversion. The term "market price" shall mean if the Common Stock is traded on a securities exchange or on the NASDAQ National Market System, the closing price of the Common Stock on such exchange or the NASDAQ National Market System, or, if the Common Stock is otherwise traded in the over-the-counter market, the closing bid price, in each case averaged over a period of 20 consecutive trading days prior to the date as of which "market price" is being determined. If at any time the Common Stock is not traded on an exchange or the NASDAQ National Market System, or otherwise traded in the over-the-counter market, the "market price" shall be deemed to be the higher of (i) the book value thereof as determined by any firm of independent public accountants of recognized standing selected by the Board of Directors of the Corporation as of the last day of any month ending within 60 days preceding the date as of which the determination is to be made, or (ii) the fair value thereof determined in good faith by the Board of Directors of the Corporation as of a date which is within 15 days of the date as of which the determination is to be made.

**(G) Mandatory Conversion of Series B and Series A.**

The Series B shall automatically be converted into shares of Common Stock, upon the written consent of the holders of at least 60% of the then outstanding shares of Series B. The Series B and the Series A shall automatically be converted into shares of Common Stock without any act by the Corporation or the holders of the Series B or Series A, concurrently with the

closing of the first public offering by the Corporation of shares of Common Stock of the Corporation registered under the Securities Act of 1933, as amended, in which (1) the aggregate public offering price of the securities sold for cash by the Corporation in the offering is at least \$15 million, which requirement may be waived by the holders of a majority of Series B, (2) the offering is underwritten on a firm commitment basis by an underwriter, or a group of underwriters represented by an underwriter or underwriters, and (3) the public offering price per share of Common Stock is at least \$3.75, which requirement may be waived by the holders of a majority of Series B (as adjusted from time to time to reflect stock splits, dividends, recapitalizations, combinations or the like). As used herein, the term "closing" shall mean the delivery by the Corporation to the underwriters of certificates representing the shares of Common Stock of the Corporation offered to the public against delivery to the Corporation by such underwriters of payment therefor. The term "firm commitment basis" with respect to the underwriting of such public offering shall mean a commitment pursuant to a written underwriting agreement under which the nature of the underwriters' commitment is such that all securities will be purchased by such underwriters if any securities are purchased by such underwriters. Each holder of a share of Series B or Series A so converted shall be entitled to receive the full number of shares of Common Stock into which such share of Series B or Series A held by such holder could be converted if such holder had exercised its conversion right at the time of closing of such public offering. Upon such conversion, each holder of a share of Series B or Series A shall immediately surrender such share in exchange for appropriate stock certificates representing a share or shares of Common Stock of the Corporation.

#### ARTICLE 4

No shareholder of the Corporation shall have any cumulative voting rights.

#### ARTICLE 5

No shareholder of the Corporation shall have any preemptive rights by virtue of Section 302A.413 of the Minnesota Statutes (or any similar provisions of future law) to subscribe for, purchase or acquire (i) any shares of capital stock, whether unissued or now or hereafter authorized, or (ii) any obligations or other securities convertible into or exchangeable for (or that carry any other right to acquire) any such shares, securities or obligations, or (iii) any other rights to purchase any such shares, securities or obligations. The Corporation shall have the power, however, in its discretion to grant such rights by agreement or other instrument to any person or persons (whether or not they are shareholders).

#### ARTICLE 6

(A) Action Without Meeting. Any action required or permitted to be taken at a meeting of the Board of Directors may be taken without a meeting by written action that is, or counterparts of which in the aggregate are, signed by the number of directors that would be required to take the same action at a meeting of the Board at which all directors entitled to vote were present, except as to those matters which require shareholder approval, on which matters the written action shall be signed by all members of the Board of Directors then in office.

(B) Limitation of Director Liability. A director of the Corporation shall not be personally liable to the Corporation or to its shareholders for monetary damages for any breach of fiduciary duty as a director to the full extent permitted by the Minnesota Business Corporation Act. If the Minnesota Business Corporation Act is amended to authorize the further elimination or limitation of the liability of directors, then the liability of a director to the Corporation, in addition to the limitation on personal liability provided herein, shall be limited to the fullest extent permitted by the amended Minnesota Business Corporation Act. Any repeal or modification of this Article 6(B) by the shareholders of the Corporation shall be prospective only and shall not adversely affect any limitation on the personal liability of, or any right or protection as, a director of the Corporation existing at, or with respect to any act or omission which occurred prior to, the date of such repeal or modification.

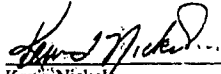
#### ARTICLE 7

Directors, officers, employees, and agents of this Corporation shall be indemnified to the maximum extent permitted by the Minnesota Business Corporation Act, as the same exists or may hereafter be amended, for expenses and liabilities arising by reason of their position with, or by acts in such capacities on behalf of, the Corporation or another corporation which they may serve at the request of the Corporation.

#### ARTICLE 8


Subject to Article 3(B) hereof, the Corporation reserves the right to amend, alter, change or repeal any provisions contained in these Amended and Restated Articles of Incorporation in the manner now or hereinafter prescribed by statute, and all rights conferred upon shareholders herein are granted subject to this reservation.

IN WITNESS WHEREOF, the undersigned, the President and Chief Executive Officer of Advanced Medical Applications, Inc., being duly authorized on behalf of Advanced Medical Applications, Inc., has executed this document as of July 30, 2002.

  
\_\_\_\_\_  
Kevin Nickels  
President and Chief Executive Officer

MI-64583.10

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STATE OF MINNESOTA  
DEPARTMENT OF STATE  
I hereby certify that this is a true and complete copy of the document as filed for recording in this office.  
DATED \_\_\_\_\_  
  
\_\_\_\_\_  
Secretary of State

BY 