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Division of Corporations  
NO. 996 0001  
Page 1 of 2  
**P01 0000 10524**

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**BASIC AMENDMENT**

**US BIOSYSTEMS, INC.**

Certificate of Status	1
Certified Copy	1
Page Count	24
Estimated Charge	\$52.50

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FAX AUDIT NO.: H02000240365 5

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**ARTICLES OF AMENDMENT  
OF  
ARTICLES OF INCORPORATION  
OF  
US BIOSYSTEMS, INC.**

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A. The name of the corporation is US Biosystems, Inc. (the "Company").

B. Article VIII and Article IX of the Company's Articles of Incorporation, as amended (the "Articles of Incorporation"), are hereby added after Article VIII of the Company's Articles of Incorporation to read in their entirety as follows:

**"Article VIII  
Series A Preferred Stock"**

1. *Number and Designation.* Of the number of authorized shares of the Preferred Stock of the Company, 357,143 shall be designated as Series A Convertible Preferred Stock, \$0.001 par value per share (the "Series A Preferred Stock"), all of which shall rank equally in all respects and shall be subject to the provisions of this Article VIII.

2. *Rank.* The Series A Preferred Stock shall, with respect to rights on liquidation, dissolution and winding up, (i) rank senior to all classes of the Company's common stock, \$0.01 par value per share (the "Common Stock") and to each other class of capital stock of the Company or series of Preferred Stock established hereafter by the Board of Directors of the Company, the terms of which do not expressly provide that it ranks on a parity with or senior to the Series A Preferred Stock as to rights on liquidation, winding up and dissolution of the Company (the securities in this clause (i) collectively referred to as "Junior Securities"); (ii) rank on a parity with the Company's Series B Convertible Preferred Stock, par value \$0.001 per share (the "Series B Preferred Stock"), and each other class of capital stock of the Company or series of Preferred Stock of the Company established hereafter by the Board of Directors of the Company, the terms of which expressly provide that such class or series will rank on a parity with the Series A Preferred Stock as to rights on liquidation, winding up and dissolution (the securities in this clause (ii) collectively referred to as "Parity Securities"); and (iii) rank junior to each other class of capital stock of the Company or series of Preferred Stock of the Company established hereafter by the Board of Directors of the Company, the terms of which expressly provide that such class or series will rank senior to the Series A Preferred Stock as to rights on liquidation, winding up and dissolution (the securities in this clause (iii)

FAX AUDIT NO.: H02000240365 5

collectively referred to as "Senior Securities"); provided, however, that the Company may not establish a class or series of Senior Securities or Parity Securities unless the Company shall have first obtained the consent of the holders of a majority of the outstanding shares of Series A Preferred Stock ("Majority A Consent") and, if necessary, the consent of the holders of a majority of any other series of Preferred Stock outstanding. The respective definitions of Junior Securities, Parity Securities and Senior Securities shall also include any rights, options, or warrants to subscribe for, purchase, or otherwise acquire Junior Securities, Parity Securities and Senior Securities, and any indebtedness, shares or other securities convertible into or exchangeable for Junior Securities, Parity Securities and Senior Securities as the case may be. The shares of Series A Preferred Stock and Series B Preferred Stock shall rank pari passu with respect to the payment of their respective accumulated dividends, if any, when and if any such dividends are paid.

3. *Dividends.* (a) The holders of each share of Series A Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors of the Company, out of funds legally available therefor, per share dividends at the rate of eight percent (8%) per annum of the Series A Liquidation Value (as defined in Section 4 below) (which amount shall be subject to adjustment whenever there shall occur a stock split, combination, reclassification or other similar event involving the Series A Preferred Stock); provided, however, any dividends not declared shall accrue from day to day at such eight percent (8%) per annum rate and shall be compounded quarterly. If there shall be any accrued but unpaid dividends with respect to any share of the Series A Preferred Stock upon its conversion, then all such accrued but unpaid dividends shall be paid in cash; provided, however, such dividends may be paid in cash or in shares of the Company's Common Stock, at the option of the Company, in the event of a voluntary conversion pursuant to Section 8(b) hereof; provided further, however, the unanimous consent of the Company's Board of Directors shall be required to pay any dividends in cash. In the event such dividends are paid in shares of Common Stock, the number of shares of Common Stock issuable in respect of such dividends shall be calculated by dividing the aggregate cash value of all accrued but unpaid dividends by the fair market value of the Company's Common Stock on the effective date of such conversion. For purposes of this Section 3, the fair market value of the Common Stock shall be the last closing price quoted on the Nasdaq National Market (or such other exchange or quotation system which is then the primary exchange or quotation system on which the Common Stock is traded) on the last business day preceding the date of conversion or, if there is no such sale, then at the average of the bid and offer prices quoted on such market for such date or, in the event the Common Stock is not then publicly traded, the value of such shares as shall be determined jointly by the Board of Directors of the Company and the holders of not less than a majority of the then outstanding shares of Series A Preferred Stock, voting as a single class.

(b) The Company shall not declare, pay or set aside any dividends (other than dividends payable in shares of Common Stock) on shares of Common Stock, unless the holders of the Series A Preferred Stock then outstanding shall have (i) first received the dividends specified in this Section 3, and (ii) simultaneously with such dividend on

12/23/2002

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NO. 996 P004

FAX AUDIT NO.: H02000240365 5

shares of Common Stock receive a dividend with respect to each outstanding share of Series A Preferred Stock equal to the product of (a) the per share dividend to be declared, paid or set aside for the Common Stock, multiplied by (b) the number of shares of Common Stock into which such share of Series A Preferred Stock is then convertible.

4. *Liquidation Preference.* In accordance with, and upon the occurrence of an event described in Section 5 below, the holder of each share of Series A Preferred Stock shall be entitled to receive an amount per share equal to \$2.10 (which amount shall be subject to adjustment whenever there shall occur a stock split, combination, reclassification or other similar event involving the Series A Preferred Stock) (the "Series A Liquidation Value"), plus any accrued but unpaid dividends through such date (together with the Series A Liquidation Value, the "Series A Liquidation Preference").

5. *Liquidation Rights.* (a) In the event of any liquidation, dissolution or winding up of the Company, whether voluntary or involuntary, before any payment or distribution of the assets of the Company (whether capital or surplus) shall be made to or set apart for the holders of Junior Securities and after and subject to the payment in full of all amounts required to be distributed to the holders of the Senior Securities in the event of any liquidation, dissolution, dissolution or winding up of the Company, the holder of each share of Series A Preferred Stock shall be entitled to receive an amount equal to the Series A Liquidation Preference for each outstanding share of Series A Preferred Stock held by such holder and the holder of any Parity Securities shall be entitled to receive an amount per share equal to the liquidation value or preference of such shares on the date of distribution, and such holders shall not be entitled to any further payment; provided, however, that if, upon any liquidation, dissolution or winding up of the Company, the assets of the Company, or proceeds thereof, distributable after payment in full of the Senior Securities shall be insufficient to pay in full the preferential amount aforesaid to the Series A Preferred Stock and the liquidating payments on any Parity Securities, then the assets of the Company, or the proceeds thereof, shall be distributed among the holders of shares of Series A Preferred Stock and any such Parity Securities ratably in accordance with the respective amounts that would be payable on such shares of Series A Preferred Stock and any such Parity Securities if all amounts payable thereon were paid in full.

(b) Subject to the rights of the holders of any Parity Securities, after payment shall have been made in full to the holders of the Series A Preferred Stock, as provided in this Section 5, any other series or class or classes of Junior Securities shall, subject to the respective terms and provisions (if any) applying thereto, be entitled to receive any and all assets remaining to be paid and distributed to holders of capital stock of the Company.

(c) Notwithstanding anything to the contrary, in the event of any transaction or series of related transactions described in Sections 9(d) or 9(e), each holder of shares of the Series A Preferred Stock shall be entitled to treat such event as a liquidation of the Company and to demand that the Company pay such holder the Series A Liquidation Preference of all, but not less than all, of such holder's Series A Preferred Stock upon the surrender of such Series A Preferred Stock to the Company.

FAX AUDIT NO.: H02000240365 5

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(d) Notwithstanding the foregoing provisions of this Section 5, upon the occurrence of a liquidation event, as described in Sections 5(a) and 5(c) above, the holders of the Series A Preferred Stock shall have the right to convert such holder's shares of Series A Preferred Stock into shares of Common Stock as provided in Section 8, receive shares of Common Stock and participate in such liquidation event as a holder of Common Stock in lieu of the payments set forth in this Section 5.

6. *Voting Rights.* The holders of record of shares of Series A Preferred Stock shall be entitled to the following voting rights:

(a) Those voting rights required by applicable law (including the right to vote as a separate class when required by law).

(b) The right to vote together with the holders of the Common Stock on an "as converted basis" upon any matter submitted to such holders for a vote in accordance with Section 6(d) hereof.

(c) Each issued and outstanding share of the Series A Preferred Stock shall be entitled to one vote if entitled to vote as a separate class and the holders of a majority in interest of the Series A Preferred Stock entitled to vote shall bind the entire class of Series A Preferred Stock. The Company shall give the holders of the Series A Preferred Stock at least 10 days prior notice of any matter to be submitted to such holders for a vote as a separate class.

(d) If the holders of the Series A Preferred Stock are voting together with the holders of the Common Stock, each holder of the Series A Preferred Stock shall be entitled to such number of votes equal to the product of the whole number of shares of Common Stock which would be issuable upon conversion of such holders' shares of Series A Preferred Stock (immediately after the close of business on the record date established by the Company for a shareholders' meeting or if no such date is established, the date immediately preceding the date of the shareholders' written consent in lieu of a meeting). For purposes of clarification, each share of Series A Preferred Stock shall vote on a one to one ratio to each share of Common Stock (1:1). The Company shall give the holders of the Series A Preferred Stock the same notice it gives to the holders of Common Stock on issues on which the Series A Preferred Stock and Common Stock vote together and if the action is to be taken by written consent, at least three (3) business days prior to the date of this written consent unless such notice is waived or approved by a Majority A Consent.

7. *Preemptive Rights.* The holders of Series A Preferred Stock shall have preemptive rights as follows:

(a) *Subsequent Offerings.* The Company shall not issue, sell or exchange, agree to issue, sell or exchange, or reserve or set aside for issuance, sale or exchange, any Equity Securities (as defined below), other than the Equity Securities

FAX AUDIT NO.: H02000240365 5

excluded by Section 7(e) hereof, unless in each case the Company shall have complied with this Section 7. The term "Equity Securities" shall mean (i) any Common Stock, (ii) any Series A Preferred Stock, Series B Preferred Stock or other series or class of Preferred Stock of the Company, (iii) any other equity security of the Company, (iii) any security convertible, with or without consideration, into any equity security of the Company (including any warrant or option to purchase such a convertible security), (iv) any option, warrant or other right to subscribe for, purchase or otherwise acquire any equity securities of the Company or (v) any debt securities convertible into equity securities of the Company.

(b) Notice: Offer. The Company shall deliver to each holder of Series A Preferred Stock a written notice of any proposed or intended issuance, sale or exchange of Equity Securities (the "Offer"), which Offer shall (i) identify and describe the Equity Securities, (ii) describe the price and other terms upon which they are to be issued, sold or exchanged, and the number or amount of the Equity Securities to be issued, sold or exchanged, (iii) identify the persons or entities (if known) to which or with which the Equity Securities are to be offered, issued, sold or exchanged and (iv) offer to issue and sell to or exchange with such holder of Series A Preferred Stock (A) such holder's pro rata portion of the Equity Securities determined by dividing the aggregate number of shares of Common Stock then held by such holder of Series A Preferred Stock (treating as converted all shares of convertible Series A Preferred Stock then issued and outstanding) by the total number of shares of Common Stock then outstanding (treating as converted all issued and outstanding shares of Preferred Stock or other convertible securities and treating as exercised all options and warrants) (the "Basic Amount"), and (B) any additional portion of the Equity Securities attributable to the Basic Amounts of holders of Series A Preferred Stock and Series B Preferred Stock as such holder shall indicate it will purchase or acquire should any holders of Series A Preferred Stock or Series B Preferred Stock subscribe for less than their Basic Amounts (the "Undersubscription Amount"). Such Offer shall remain open for fifteen (15) days after delivery to the holder of Series A Preferred Stock. Such Offer may be delivered by facsimile, overnight courier, first class mail or any other reasonable manner at the address or facsimile number most recently supplied to the Company by the holder of Series A Preferred Stock. Notwithstanding the foregoing, the Company shall not be required to offer or sell such Equity Securities to any holder of Series A Preferred Stock who would cause the Company to be in violation of applicable federal securities laws by virtue of such offer or sale.

(c) Acceptance of Offer. To accept an Offer, in whole or in part, a holder of Series A Preferred Stock must deliver a written notice to the Company prior to the end of the fifteen (15)-day period of the Offer, setting forth the portion of such holder's Basic Amount that such holder elects to purchase and, if such holder shall elect to purchase all of its Basic Amount, the Undersubscription Amount (if any) that such holder elects to purchase (the "Notice of Acceptance"). If the Basic Amounts subscribed for by all holders of Series A Preferred Stock and Series B Preferred Stock are less than the total of all of the Basic Amounts available for purchase, then each holder of Series A Preferred Stock who has set forth an Undersubscription Amount in its Notice of

12/23/2002

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FAX AUDIT NO.: H02000240365 5

NO. 996 P007

Acceptance shall be entitled to purchase, in addition to the Basic Amount subscribed for, the Undersubscription Amount it has subscribed for; provided, however, that if the Undersubscription Amounts subscribed for exceed the difference between the total of all of the Basic Amounts available for purchase and the Basic Amounts subscribed for (the "Available Undersubscription Amount"), each holder of Series A Preferred Stock who has subscribed for any Undersubscription Amount shall be entitled to purchase only that portion of the Available Undersubscription Amount as the Undersubscription Amount subscribed for by such holder bears to the total Undersubscription Amounts subscribed for by all holders of Series A Preferred Stock and Series B Preferred Stock, subject to rounding by the Board of Directors to the extent it deems reasonably necessary.

(d) Lapse and Reinstatement of Preemptive Right. The Company shall have 120 days from the expiration of the period set forth in Section 7(b) above to issue, sell or exchange all or any part of such Equity Securities as to which a Notice of Acceptance has not been given by the holders of Series A Preferred Stock and Series B Preferred Stock (the "Refused Securities"), but only to the offerees described in the Offer (if so described therein) and only upon terms and conditions (including, without limitation, unit prices and interest rates) which are not more favorable, in the aggregate, to the acquiring person or persons or less favorable to the Company than those set forth in the Offer. Any Offered Securities not acquired by the holders of Series A Preferred Stock, Series B Preferred Stock or other persons in accordance with this Section may not be issued, sold or exchanged until they are again offered to the holders of Series A Preferred Stock under the procedures specified in Article VIII.

(e) Excluded Securities. The preemptive rights established by this Section 7 shall have no application to any of the following Equity Securities: (i) Equity Securities issued as a stock dividend to holders of Common Stock or upon any stock split, subdivision or combination of shares of Equity Securities; (ii) the issuance of any Equity Securities upon conversion of shares of the Company's Preferred Stock; (iii) the issuance of Equity Securities, or the grant of options therefor, including shares issued upon exercise of options outstanding on the effective date of this Article VIII to officers, directors, consultants and employees of the Company or any subsidiary pursuant to any plan, agreement or arrangement approved by a vote of not less than a majority of the Board of Directors of the Company; (iv) Equity Securities issued pursuant to any rights or agreements outstanding as of the effective date of this Article VIII and options and warrants outstanding as of the effective date of this Article VIII, and Equity Securities issued pursuant to any such rights or agreements that become effective after the effective date of this Article VIII (provided that the preemptive rights established by this Section 7 applied with respect to the initial sale or grant by the Company of such rights or agreements); (v) Equity Securities issued for consideration other than cash in connection with a strategic commercial transaction (including without limitation partnerships, joint ventures, marketing or distribution arrangements, and technology transfer or development arrangements) or in connection with a debt financing with a financial institution or equipment leasing arrangement so long as the arrangements specified in this Section 7(c)(v) are approved by the Company's Board of Directors; (vi) Equity Securities issued solely in consideration for the acquisition (whether by merger or otherwise) by the

FAX AUDIT NO.: H02000240365 5

Company or any of its subsidiaries of all or substantially all of the stock or assets of any other entity (whether by merger, consolidation, purchase of assets or stock); (vii) the issuance of up to 357,143 shares of Series A Preferred Stock; (viii) the issuance of up to 636,364 shares of Series B Preferred Stock; (ix) Equity Securities issued pursuant to a Qualified Offering; or (x) any issuance of securities as to which the holders of at least a majority of the outstanding shares of Series A Preferred Stock, voting as a single class, agree to waive their preemptive rights.

(f) Termination. The rights and obligations contained in this Section 7 shall terminate upon the earlier of the following events (a) the conversion of all outstanding shares of Series A Preferred Stock or (b) the closing of a Qualified Offering (as defined in Section 8(a) below).

8. Conversion. (a) Mandatory Conversion Upon Qualified Offering. All outstanding shares of Series A Preferred Stock shall be converted into Common Stock automatically, and without further action by any party, immediately upon the closing of the Company's initial firm commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, covering the offer and sale of Common Stock by the Company to the public that results in gross cash proceeds to the Company of at least \$20,000,000 and at a per share price of \$5.00 (as adjusted for stock splits, stock dividends, recapitalizations and similar transactions) (a "Qualified Offering"). One share of Common Stock (subject to adjustment in accordance with Section 8(f)), plus any cash or shares of Common Stock due and payable pursuant to Section 3 hereof, shall be deliverable upon the conversion of each share of Series A Preferred Stock on the date on which the Qualified Offering is consummated. No notice delivered by the Company pursuant to Section 8(g) will limit in any way the holders' rights to convert pursuant to this Section 8(a).

(b) Conversion at the Option of the Holder. Subject to the provisions of this Section 8, each holder of shares of Series A Preferred Stock shall have the right, at any time and from time to time, at such holder's option, to convert its outstanding shares of Series A Preferred Stock, in whole or in part, into fully paid and non-assessable shares of Common Stock. One share of Common Stock (subject to adjustment in accordance with Section 8(f)), plus any cash or shares of Common Stock due and payable pursuant to Section 3 hereof, shall be deliverable upon the conversion of each share of Series A Preferred Stock pursuant to this Section 8(b). No notice delivered by the Company pursuant to Section 8(g) will limit in any way the holders' rights to convert pursuant to this Section 8(b). In order to exercise the conversion privilege set forth in this Section 8(b), the holder of the shares of Series A Preferred Stock to be converted shall surrender the certificate representing such shares at the office of the Company, with a written notice of election to convert completed and signed, specifying the number of shares to be converted. Each conversion pursuant to this Section 8(b) shall be deemed to have been effected immediately prior to the close of business on the date on which the certificates for shares of Series A Preferred Stock shall have been surrendered and such notice received by the Company as aforesaid, and the person in whose name or names any certificate or certificates for shares of Common Stock shall be issuable upon such



12/23/2002

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NO. 996 P009

FAX AUDIT NO.: H02000240365 5

conversion shall be deemed to have become the holder of record of the shares of Common Stock represented thereby at such time on such date. Effective upon such conversion, the shares of Series A Preferred Stock so converted shall no longer be deemed to be outstanding, and all rights of a holder with respect to such shares surrendered for conversion shall immediately terminate except the right to receive the Common Stock and other amounts payable pursuant to this Section 8.

(c) Unless the shares issuable on conversion pursuant to this Section 8 are to be issued in the same name as the name in which such shares of Series A Preferred Stock are registered, each share surrendered for conversion shall be accompanied by instruments of transfer, in form reasonably satisfactory to the Company, duly executed by the holder or the holder's duly authorized attorney. As promptly as practicable after the surrender by the holder of the certificates for shares of Series A Preferred Stock as aforesaid, the Company shall issue and shall deliver to such holder, or on the holder's written order to the holder's transferee, a certificate or certificates for the whole number of shares of Common Stock issuable upon the conversion of such shares in accordance with the provisions of this Section 8. All shares of Common Stock delivered upon conversion of the Series A Preferred Stock will upon delivery be duly and validly issued and fully paid and non-assessable, free of all liens and charges and not subject to any preemptive rights.

(d) The Company shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of the shares of the Series A Preferred Stock, such number of its shares of Common Stock as shall, from time to time, be sufficient to effect the conversion of all outstanding shares of the Series A Preferred Stock. The Company shall take all action necessary to ensure that all shares of Common Stock which shall be so issued shall be duly and validly issued and fully paid and non-assessable and free from all transfer taxes, liens, and charges with respect to the issuance thereof, and without limiting the generality of the foregoing, the Company will, from time to time, take all action as may be required to assure that the per value per share of the Common Stock is at all times equal to or less than the Series A Liquidation Value of the Series A Preferred Stock in effect at that time. The Company shall pay any and all documentary, stamp or similar issue or transfer taxes payable in respect of the issue or delivery of shares of Common Stock on conversion of the Series A Preferred Stock pursuant hereto. The Company will take all action as may be necessary, from time to time, to ensure that all such shares of Common Stock may be so issued without violation of then applicable law or regulation, or of any requirement of any national securities exchange upon which the Common Stock may then be listed. If at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Series A Preferred Stock, in addition to such other remedies as shall be available to the holder of the shares of Series A Preferred Stock, the Company will take such corporate action within its corporate power, in the opinion of its counsel, necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes, including without limitation engaging in its best efforts to obtain the

FAX AUDIT NO.: H02000240365 5

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FAX AUDIT NO.: H02000240365 5

NO. 996 D010

requisite shareholder approval of any necessary amendment to its Articles of Incorporation.

(e) In connection with the conversion of any shares of Series A Preferred Stock, no fractional shares of Common Stock shall be required to be issued, but in lieu thereof the Company may pay to such holder an amount in cash equal to any fractional share to which such holder would be entitled, multiplied by the then fair market value of the Common Stock as determined in accordance with Section 3 hereof.

(f) In case the Company shall at any time after the date of first issuance of the Series A Preferred Stock declare a dividend or make a distribution on Common Stock payable in Common Stock, subdivide or split the outstanding Common Stock, combine or reclassify the outstanding Common Stock into a smaller number of shares or consolidate with, or merge with or into, any other entity, or engage in any reorganization, reclassification or recapitalization that is effected in such a manner that the holders of Common Stock are entitled to receive stock, securities, cash or other assets with respect to or in exchange for Common Stock, then the kind and amount of stock, securities, cash or other assets issuable upon conversion of the Series A Preferred Stock in effect at the time of the record date for such dividend or distribution or of the effective date of such subdivision, split, combination, consolidation, merger, reorganization, reclassification or recapitalization shall be adjusted so that the conversion of the Series A Preferred Stock after such time shall entitle the holder to receive the aggregate number of shares of Common Stock or securities, cash and other assets that, if the Series A Preferred Stock had been converted immediately prior to such time, such holder would have owned upon such conversion and been entitled to receive by virtue of such dividend, distribution, subdivision, split, combination, consolidation, merger, reorganization, reclassification or recapitalization. Such adjustment shall be made successively whenever any event listed above shall occur. All calculations under this Section 8(f) shall be made to the nearest four decimal points. In the event that, at any time as a result of the provisions of this Section 8(f), the holder of the Series A Preferred Stock upon subsequent conversion shall become entitled to receive any securities other than Common Stock, the number and kind of such other securities so receivable upon conversion of the Series A Preferred Stock shall thereafter be subject to adjustment from time to time in a manner and on terms as nearly equivalent as practicable to the provisions contained herein.

(g) Upon the occurrence of each adjustment or readjustment pursuant to this Section 8, the Company, at its expense, shall promptly compute such adjustment or readjustment in accordance with the terms hereof and prepare and furnish to each holder of Series A Preferred Stock a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Company shall, upon the written request at any time of any holder of Series A Preferred Stock, furnish or cause to be furnished to such holder a certificate setting forth: (i) such adjustment or readjustment; (ii) the Series A Liquidation Value for the Series A Preferred Stock in effect prior and subsequent to such adjustment or readjustment at the time in effect; (iii) the number of shares of Common Stock into which

such Series A Preferred Stock is convertible; and (iv) the amount, if any, of cash or other property which at the time would be received upon conversion of a share of Series A Preferred Stock including without limitation a statement as to whether the Company, upon a voluntary conversion by such holder pursuant to Section 8(b) hereof, will pay accrued and unpaid dividends to such holder in cash or capital stock of the Company pursuant to Section 3(a) hereof.

(h) Any shares of Series A Preferred Stock that are converted pursuant to Section 8 hereof, shall be canceled and shall not be reissued, sold or transferred by the Company, and the Company shall take such appropriate corporate action within its corporate power, in the opinion of its counsel, necessary to reduce the number of authorized shares of the Company's capital stock.

9. *Series A Preferred Stock Restrictions and Limitations.* Until the consummation of a Qualified Offering and for so long as any shares of Series A Preferred Stock remain outstanding, the Company shall not, without the approval, by vote or written consent, of the holders of at least a majority of the then outstanding shares of Series A Preferred Stock:

(a) issue additional shares of Series A Preferred Stock or Series B Preferred Stock;

(b) create or issue any new class or series of stock with rights senior to or pari passu with the rights of the Series A Preferred Stock or enter into any contract or grant any option for the issuance of any such securities;

(c) redeem, repurchase or acquire any shares of its capital stock, other than repurchases by the Company of shares of Common Stock held by employees, officers, directors, consultants, independent contractors, advisors or other persons performing services for the Company or any subsidiary of the Company that are subject to a shareholders agreement, restricted stock purchase agreement or stock option agreement under which the Company has the option to repurchase such shares at such holder's cost or at any price pursuant to the Company's exercise of a right of first refusal to repurchase such shares;

(d) unless the holders of the Series A Preferred Stock receive full payment of their Series A Liquidation Preference, engage in a transaction or series of related transactions involving the assignment, sale, lease, contribution or other disposition or transfer of 50% or more of the Company's assets (whether by sale, license, merger, consolidation, liquidation, dissolution or otherwise);

(e) unless the holders of the Series A Preferred Stock receive full payment of their Series A Liquidation Preference, consummate any merger or consolidation in which the Company is a surviving party and which results in a change in a majority of the Voting Power of the Company; for purposes hereof, "Voting Power"

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FAX AUDIT NO.: H02000240365 5

means the right to vote or consent with respect to any shareholder action by virtue of holding of record shares of Common Stock, Series A Preferred Stock, Series B Preferred Stock or any other voting capital stock of the Company (giving then present effect to the voting rights of such Common Stock, Series A Preferred Stock, Series B Preferred Stock or other voting capital stock with respect to any matter on which all of the holders of the voting capital stock are voting together with the holders of the Common Stock as a single class); or

(f) create, incur or assume any indebtedness for borrowed money or any capitalized lease obligations in excess of \$2.5 million, individually or in the aggregate and on a cumulative basis.

10. *Preferred Stock Restrictions and Limitations.* Until the consummation of a Qualified Offering and for so long as any shares of Preferred Stock remain outstanding, the Company shall not, without the approval, by vote or written consent, of the holders of at least a majority of the then outstanding shares of Preferred Stock (on an "as converted basis"):

(a) amend or otherwise modify the Company's Articles of Incorporation;

(b) amend or otherwise modify the Company's Bylaws, as amended to date;

(c) effect a reclassification or recapitalization of the outstanding shares of the Company's capital stock;

(d) take any action that results in a material change in the nature of the Company's business;

(e) increase the number of shares of Common Stock available for issuance under the Company's stock option plan(s) or create or amend such other plan or agreement pursuant to which the Company issues options or other rights to purchase shares of Common Stock to its employees, officers, consultants and directors;

(f) effect any dissolution, liquidation or other winding up of the Company or any subsidiary thereof; or

(g) remove or appoint the Company's Chief Executive Officer.

11. *Amendments and Other Actions.* So long as shares of Series A Preferred Stock are outstanding, the Company shall not, without first obtaining the Majority A Consent (by vote or written consent) of Series A Preferred Stock, alter or change the rights, preferences or privileges of the Series A Preferred Stock or any other capital stock of the Company so as to adversely affect the Series A Preferred Stock. Notwithstanding the foregoing, and unless otherwise required by applicable law, the Company when

FAX AUDIT NO.: H02000240365 5

FAX AUDIT NO.: H02000240365 5

authorized by resolutions of its Board of Directors may amend or supplement its Articles of Incorporation without the consent of any holder of Series A Preferred Stock or any holder of Common Stock to cure any ambiguity, defect or inconsistency in this Articles of Amendment that establishes the Series A Preferred Stock so long as such amendment would not adversely affect the Series A Preferred Stock.

12. *No Impairment.* The Company will not, by amendment of its Articles of Incorporation or through any reorganization, recapitalization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Company, but will at all times in good faith assist in the carrying out of all the provisions of this Articles of Amendment and in the taking of all such action as may be necessary or appropriate in order to protect the rights of the holders of the Series A Preferred Stock against impairment."

"Article IX  
Series B Preferred Stock"

1. *Number and Designation.* Of the number of authorized shares of the Preferred Stock of the Company, 636,364 shall be designated as Series B Convertible Preferred Stock, \$0.001 par value per share (the "Series B Preferred Stock"), all of which shall rank equally in all respects and shall be subject to the provisions of this Article IX.

2. *Rank.* The Series B Preferred Stock shall, with respect to rights on liquidation, dissolution and winding up, (i) rank senior to all classes of the Company's common stock, \$0.01 par value per share (the "Common Stock") and to each other class of capital stock of the Company or series of Preferred Stock established hereafter by the Board of Directors of the Company, the terms of which do not expressly provide that it ranks on a parity with or senior to the Series B Preferred Stock as to rights on liquidation, winding up and dissolution of the Company (the securities in this clause (i) collectively referred to as "Junior Securities"); (ii) rank on a parity with the Company's Series A Convertible Preferred Stock, par value \$0.001 per share (the "Series A Preferred Stock"), and each other class of capital stock of the Company or series of Preferred Stock of the Company established hereafter by the Board of Directors of the Company, the terms of which expressly provide that such class or series will rank on a parity with the Series B Preferred Stock as to rights on liquidation, winding up and dissolution (the securities in this clause (ii) collectively referred to as "Parity Securities"); and (iii) rank junior to each other class of capital stock of the Company or series of Preferred Stock of the Company established hereafter by the Board of Directors of the Company, the terms of which expressly provide that such class or series will rank senior to the Series B Preferred Stock as to rights on liquidation, winding up and dissolution (the securities in this clause (iii) collectively referred to as "Senior Securities"); provided, however, that the Company may not establish a class or series of Senior Securities or Parity Securities unless the Company shall have first obtained the consent of the holders of a majority of the

FAX AUDIT NO.: H02000240365 5

outstanding shares of Series B Preferred Stock ("Majority B Consent") and, if necessary, the consent of the holders of a majority of any other series of Preferred Stock outstanding. The respective definitions of Junior Securities, Parity Securities and Senior Securities shall also include any rights, options, or warrants to subscribe for, purchase, or otherwise acquire Junior Securities, Parity Securities and Senior Securities, and any indebtedness, shares or other securities convertible into or exchangeable for Junior Securities, Parity Securities and Senior Securities as the case may be. The shares of Series B Preferred Stock and Series A Preferred Stock shall rank pari passu with respect to the payment of their respective accumulated dividends, if any, when and if any such dividends are paid.

3. *Dividends.* (a) From the date of first issuance of the Series B Preferred Stock and for a period of two years thereafter, the holders of the Series B Preferred Stock shall not be entitled to dividends and dividends shall not accrue on their shares of Series B Preferred Stock. Thereafter, the holders of Series B Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors of the Company, out of funds legally available therefor, per share dividends at the rate of six percent (6%) per annum of the Series B Liquidation Value (as defined in Section 4 below) (which amount shall be subject to adjustment whenever there shall occur a stock split, combination, reclassification or other similar event involving the Series B Preferred Stock); provided, however, any dividends not declared shall accrue from day to day at such six percent (6%) per annum rate and shall be compounded quarterly. If there shall be any accrued but unpaid dividends with respect to any share of the Series B Preferred Stock upon its conversion, then all such accrued but unpaid dividends shall be paid in cash; provided, however, such dividends may be paid in cash or in shares of the Company's Common Stock, at the option of the Company, in the event of a voluntary conversion pursuant to Section 8(b) hereof; provided further, however, the unanimous consent of the Company's Board of Directors shall be required to pay any dividends in cash. In the event such dividends are paid in shares of Common Stock, the number of shares of Common Stock issuable in respect of such dividends shall be calculated by dividing the aggregate cash value of all accrued but unpaid dividends by the fair market value of the Company's Common Stock on the effective date of such conversion. For purposes of this Section 3, the fair market value of the Common Stock shall be the last closing price quoted on the Nasdaq National Market (or such other exchange or quotation system which is then the primary exchange or quotation system on which the Common Stock is traded) on the last business day preceding the date of conversion or, if there is no such sale, then at the average of the bid and offer prices quoted on such market for such date or, in the event the Common Stock is not then publicly traded, the value of such shares as shall be determined jointly by the Board of Directors of the Company and the holders of not less than a majority of the then outstanding shares of Series B Preferred Stock, voting as a single class.

(b) The Company shall not declare, pay or set aside any dividends (other than dividends payable in shares of Common Stock) on shares of Common Stock, unless the holders of the Series B Preferred Stock then outstanding shall have (i) first received the dividends specified in this Section 3, and (ii) simultaneously with such dividend on

FAX AUDIT NO.: H02000240365 5

shares of Common Stock receive a dividend with respect to each outstanding share of Series B Preferred Stock equal to the product of (a) the per share dividend to be declared, paid or set aside for the Common Stock, multiplied by (b) the number of shares of Common Stock into which such share of Series B Preferred Stock is then convertible.

4. *Liquidation Preference.* In accordance with, and upon the occurrence of an event described in Section 5 below, the holder of each share of Series B Preferred Stock shall be entitled to receive an amount per share equal to \$2.20 (which amount shall be subject to adjustment whenever there shall occur a stock split, combination, reclassification or other similar event involving the Series B Preferred Stock) (the "Series B Liquidation Value"), plus any accrued but unpaid dividends through such date (together with the Series B Liquidation Value, the "Series B Liquidation Preference").

5. *Liquidation Rights.* (a) In the event of any liquidation, dissolution or winding up of the Company, whether voluntary or involuntary, before any payment or distribution of the assets of the Company (whether capital or surplus) shall be made to or set apart for the holders of Junior Securities and after and subject to the payment in full of all amounts required to be distributed to the holders of the Senior Securities in the event of any liquidation, dissolution, dissolution or winding up of the Company, the holder of each share of Series B Preferred Stock shall be entitled to receive an amount equal to the Series B Liquidation Preference for each outstanding share of Series B Preferred Stock held by such holder and the holder of any Parity Securities shall be entitled to receive an amount per share equal to the liquidation value or preference of such shares on the date of distribution, and such holders shall not be entitled to any further payment; provided, however, that if, upon any liquidation, dissolution or winding up of the Company, the assets of the Company, or proceeds thereof, distributable after payment in full of the Senior Securities shall be insufficient to pay in full the preferential amount aforesaid to the Series B Preferred Stock and the liquidating payments on any Parity Securities, then the assets of the Company, or the proceeds thereof, shall be distributed among the holders of shares of Series B Preferred Stock and any such Parity Securities ratably in accordance with the respective amounts that would be payable on such shares of Series B Preferred Stock and any such Parity Securities if all amounts payable thereon were paid in full.

(b) Subject to the rights of the holders of any Parity Securities, after payment shall have been made in full to the holders of the Series B Preferred Stock, as provided in this Section 5, any other series or class or classes of Junior Securities shall, subject to the respective terms and provisions (if any) applying thereto, be entitled to receive any and all assets remaining to be paid and distributed to holders of capital stock of the Company.

(c) Notwithstanding anything to the contrary, in the event of any transaction or series of related transactions described in Sections 9(d) or 9(e), each holder of shares of the Series B Preferred Stock shall be entitled to treat such event as a liquidation of the Company and to demand that the Company pay such holder the Series B Liquidation Preference of all, but not less than all, of such holder's Series B Preferred Stock upon the surrender of such Series B Preferred Stock to the Company.

FAX AUDIT NO.: 1102000240365 5

(d) Notwithstanding the foregoing provisions of this Section 5, upon the occurrence of a liquidation event, as described in Sections 5(a) and 5(c) above, the holders of the Series B Preferred Stock shall have the right to convert such holder's shares of Series B Preferred Stock into shares of Common Stock as provided in Section 8, receive shares of Common Stock and participate in such liquidation event as a holder of Common Stock in lieu of the payments set forth in this Section 5.

6. *Voting Rights.* The holders of record of shares of Series B Preferred Stock shall be entitled to the following voting rights:

(a) Those voting rights required by applicable law (including the right to vote as a separate class when required by law).

(b) The right to vote together with the holders of the Common Stock on an "as converted basis" upon any matter submitted to such holders for a vote in accordance with Section 6(d) hereof.

(c) Each issued and outstanding share of the Series B Preferred Stock shall be entitled to one vote if entitled to vote as a separate class and the holders of a majority in interest of the Series B Preferred Stock entitled to vote shall bind the entire class of Series B Preferred Stock. The Company shall give the holders of the Series B Preferred Stock at least 10 days prior notice of any matter to be submitted to such holders for a vote as a separate class.

(d) If the holders of the Series B Preferred Stock are voting together with the holders of the Common Stock, each holder of the Series B Preferred Stock shall be entitled to such number of votes equal to the product of the whole number of shares of Common Stock which would be issuable upon conversion of such holders' shares of Series B Preferred Stock (immediately after the close of business on the record date established by the Company for a shareholders' meeting or if no such date is established, the date immediately preceding the date of the shareholders' written consent in lieu of a meeting) times fourteen. For purposes of clarification, each share of Series B Preferred Stock shall vote in a fourteen to one ratio to each share of Common Stock (14:1). The Company shall give the holders of the Series B Preferred Stock the same notice it gives to the holders of Common Stock on issues on which the Series B Preferred Stock and Common Stock vote together and if the action is to be taken by written consent, at least three (3) business days prior to the date of this written consent unless such notice is waived or approved by a Majority B Consent.

7. *Preemptive Rights.* The holders of Series B Preferred Stock shall have preemptive rights as follows:

(a) Subsequent Offerings. The Company shall not issue, sell or exchange, agree to issue, sell or exchange, or reserve or set aside for issuance, sale or exchange, any Equity Securities (as defined below), other than the Equity Securities

FAX AUDIT NO.: 1102000240365 5



FAX AUDIT NO.: H02000240365 5

excluded by Section 7(e) hereof, unless in each case the Company shall have complied with this Section 7. The term "Equity Securities" shall mean (i) any Common Stock, (ii) any Series A Preferred Stock, Series B Preferred Stock or other series or class of Preferred Stock of the Company, (iii) any other equity security of the Company, (iii) any security convertible, with or without consideration, into any equity security of the Company (including any warrant or option to purchase such a convertible security), (iv) any option, warrant or other right to subscribe for, purchase or otherwise acquire any equity securities of the Company or (v) any debt securities convertible into equity securities of the Company.

(b) Notice Offer. The Company shall deliver to each holder of Series B Preferred Stock a written notice of any proposed or intended issuance, sale or exchange of Equity Securities (the "Offer"), which Offer shall (i) identify and describe the Equity Securities, (ii) describe the price and other terms upon which they are to be issued, sold or exchanged, and the number or amount of the Equity Securities to be issued, sold or exchanged, (iii) identify the persons or entities (if known) to which or with which the Equity Securities are to be offered, issued, sold or exchanged and (iv) offer to issue and sell to or exchange with such holder of Series B Preferred Stock (A) such holder's pro rata portion of the Equity Securities determined by dividing the aggregate number of shares of Common Stock then held by such holder of Series B Preferred Stock (treating as converted all shares of convertible Series B Preferred Stock then issued and outstanding) by the total number of shares of Common Stock then outstanding (treating as converted all issued and outstanding shares of Preferred Stock or other convertible securities and treating as exercised all options and warrants) (the "Basic Amount"), and (B) any additional portion of the Equity Securities attributable to the Basic Amounts of holders of Series A Preferred Stock and Series B Preferred Stock as such holder shall indicate it will purchase or acquire should any holders of Series A Preferred Stock or Series B Preferred Stock subscribe for less than their Basic Amounts (the "Undersubscription Amount"). Such Offer shall remain open for fifteen (15) days after delivery to the holder of Series B Preferred Stock. Such Offer may be delivered by facsimile, overnight courier, first class mail or any other reasonable manner at the address or facsimile number most recently supplied to the Company by the holder of Series B Preferred Stock. Notwithstanding the foregoing, the Company shall not be required to offer or sell such Equity Securities to any holder of Series B Preferred Stock who would cause the Company to be in violation of applicable federal securities laws by virtue of such offer or sale.

(c) Acceptance of Offer. To accept an Offer, in whole or in part, a holder of Series B Preferred Stock must deliver a written notice to the Company prior to the end of the fifteen (15)-day period of the Offer, setting forth the portion of such holder's Basic Amount that such holder elects to purchase and, if such holder shall elect to purchase all of its Basic Amount, the Undersubscription Amount (if any) that such holder elects to purchase (the "Notice of Acceptance"). If the Basic Amounts subscribed for by all holders of Series A Preferred Stock and Series B Preferred Stock are less than the total of all of the Basic Amounts available for purchase, then each holder of Series B Preferred Stock who has set forth an Undersubscription Amount in its Notice of

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Acceptance shall be entitled to purchase, in addition to the Basic Amount subscribed for, the Undersubscription Amount it has subscribed for; provided, however, that if the Undersubscription Amounts subscribed for exceed the difference between the total of all of the Basic Amounts available for purchase and the Basic Amounts subscribed for (the "Available Undersubscription Amount"), each holder of Series B Preferred Stock who has subscribed for any Undersubscription Amount shall be entitled to purchase only that portion of the Available Undersubscription Amount as the Undersubscription Amount subscribed for by such holder bears to the total Undersubscription Amounts subscribed for by all holders of Series A Preferred Stock and Series B Preferred Stock, subject to rounding by the Board of Directors to the extent it deems reasonably necessary.

(d) Lapse and Reinstatement of Preemptive Right. The Company shall have 120 days from the expiration of the period set forth in Section 7(b) above to issue, sell or exchange all or any part of such Equity Securities as to which a Notice of Acceptance has not been given by the holders of Series A Preferred Stock and Series B Preferred Stock (the "Refused Securities"), but only to the offerees described in the Offer (if so described therein) and only upon terms and conditions (including, without limitation, unit prices and interest rates) which are not more favorable, in the aggregate, to the acquiring person or persons or less favorable to the Company than those set forth in the Offer. Any Offered Securities not acquired by the holders of Series A Preferred Stock, Series B Preferred Stock or other persons in accordance with this Section may not be issued, sold or exchanged until they are again offered to the holders of Series B Preferred Stock under the procedures specified in Article IX.

(e) Excluded Securities. The preemptive rights established by this Section 7 shall have no application to any of the following Equity Securities: (i) Equity Securities issued as a stock dividend to holders of Common Stock or upon any stock split, subdivision or combination of shares of Equity Securities; (ii) the issuance of any Equity Securities upon conversion of shares of the Company's Preferred Stock; (iii) the issuance of Equity Securities, or the grant of options therefor, including shares issued upon exercise of options outstanding on the effective date of this Article IX to officers, directors, consultants and employees of the Company or any subsidiary pursuant to any plan, agreement or arrangement approved by a vote of not less than a majority of the Board of Directors of the Company; (iv) Equity Securities issued pursuant to any rights or agreements outstanding as of the effective date of this Article IX and options and warrants outstanding as of the effective date of this Article IX, and Equity Securities issued pursuant to any such rights or agreements that become effective after the effective date of this Article IX (provided that the preemptive rights established by this Section 7 applied with respect to the initial sale or grant by the Company of such rights or agreements); (v) Equity Securities issued for consideration other than cash in connection with a strategic commercial transaction (including without limitation partnerships, joint ventures, marketing or distribution arrangements, and technology transfer or development arrangements) or in connection with a debt financing with a financial institution or equipment leasing arrangement so long as the arrangements specified in this Section 7(e)(v) are approved by the Company's Board of Directors; (vi) Equity Securities issued solely in consideration for the acquisition (whether by merger or otherwise) by the

Company or any of its subsidiaries of all or substantially all of the stock or assets of any other entity (whether by merger, consolidation, purchase of assets or stock); (vii) the issuance of up to 357,143 shares of Series A Preferred Stock; (viii) the issuance of up to 636,364 shares of Series B Preferred Stock; (ix) Equity Securities issued pursuant to a Qualified Offering; or (x) any issuance of securities as to which the holders of at least a majority of the outstanding shares of Series B Preferred Stock, voting as a single class, agree to waive their preemptive rights.

(f) Termination. The rights and obligations contained in this Section 7 shall terminate upon the earlier of the following events (a) the conversion of all outstanding shares of Series B Preferred Stock or (b) the closing of a Qualified Offering (as defined in Section 8(a) below).

8. Conversion. (a) Mandatory Conversion Upon Qualified Offering. All outstanding shares of Series B Preferred Stock shall be converted into Common Stock automatically, and without further action by any party, immediately upon the closing of the Company's initial firm commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, covering the offer and sale of Common Stock by the Company to the public that results in gross cash proceeds to the Company of at least \$20,000,000 and at a per share price of \$5.00 (as adjusted for stock splits, stock dividends, recapitalizations and similar transactions) (a "Qualified Offering"). One share of Common Stock (subject to adjustment in accordance with Section 8(f)), plus any cash or shares of Common Stock due and payable pursuant to Section 3 hereof, shall be deliverable upon the conversion of each share of Series B Preferred Stock on the date on which the Qualified Offering is consummated. No notice delivered by the Company pursuant to Section 8(g) will limit in any way the holders' rights to convert pursuant to this Section 8(a).

(b) Conversion at the Option of the Holder. Subject to the provisions of this Section 8, each holder of shares of Series B Preferred Stock shall have the right, at any time and from time to time, at such holder's option, to convert its outstanding shares of Series B Preferred Stock, in whole or in part, into fully paid and non-assessable shares of Common Stock. One share of Common Stock (subject to adjustment in accordance with Section 8(f)), plus any cash or shares of Common Stock due and payable pursuant to Section 3 hereof, shall be deliverable upon the conversion of each share of Series B Preferred Stock pursuant to this Section 8(b). No notice delivered by the Company pursuant to Section 8(g) will limit in any way the holders' rights to convert pursuant to this Section 8(b). In order to exercise the conversion privilege set forth in this Section 8(b), the holder of the shares of Series B Preferred Stock to be converted shall surrender the certificate representing such shares at the office of the Company, with a written notice of election to convert completed and signed, specifying the number of shares to be converted. Each conversion pursuant to this Section 8(b) shall be deemed to have been effected immediately prior to the close of business on the date on which the certificates for shares of Series B Preferred Stock shall have been surrendered and such notice received by the Company as aforesaid, and the person 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 of record of the shares of Common Stock represented thereby at such time on such date. Effective upon such conversion, the shares of Series B Preferred Stock so converted shall no longer be deemed to be outstanding, and all rights of a holder with respect to such shares surrendered for conversion shall immediately terminate except the right to receive the Common Stock and other amounts payable pursuant to this Section 8.

(c) Unless the shares issuable on conversion pursuant to this Section 8 are to be issued in the same name as the name in which such shares of Series B Preferred Stock are registered, each share surrendered for conversion shall be accompanied by instruments of transfer, in form reasonably satisfactory to the Company, duly executed by the holder or the holder's duly authorized attorney. As promptly as practicable after the surrender by the holder of the certificates for shares of Series B Preferred Stock as aforesaid, the Company shall issue and shall deliver to such holder, or on the holder's written order to the holder's transferee, a certificate or certificates for the whole number of shares of Common Stock issuable upon the conversion of such shares in accordance with the provisions of this Section 8. All shares of Common Stock delivered upon conversion of the Series B Preferred Stock will upon delivery be duly and validly issued and fully paid and non-assessable, free of all liens and charges and not subject to any preemptive rights.

(d) The Company shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of the shares of the Series B Preferred Stock, such number of its shares of Common Stock as shall, from time to time, be sufficient to effect the conversion of all outstanding shares of the Series B Preferred Stock. The Company shall take all action necessary to ensure that all shares of Common Stock which shall be so issued shall be duly and validly issued and fully paid and non-assessable and free from all transfer taxes, liens, and charges with respect to the issuance thereof, and without limiting the generality of the foregoing, the Company will, from time to time, take all action as may be required to assure that the par value per share of the Common Stock is at all times equal to or less than the Series B Liquidation Value of the Series B Preferred Stock in effect at that time. The Company shall pay any and all documentary, stamp or similar issue or transfer taxes payable in respect of the issue or delivery of shares of Common Stock on conversion of the Series B Preferred Stock pursuant hereto. The Company will take all action as may be necessary, from time to time, to ensure that all such shares of Common Stock may be so issued without violation of then applicable law or regulation, or of any requirement of any national securities exchange upon which the Common Stock may then be listed. If at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Series B Preferred Stock, in addition to such other remedies as shall be available to the holder of the shares of Series B Preferred Stock, the Company will take such corporate action within its corporate power, in the opinion of its counsel, necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes, including without limitation engaging in its best efforts to obtain the

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requisite shareholder approval of any necessary amendment to its Articles of Incorporation.

(e) In connection with the conversion of any shares of Series B Preferred Stock, no fractional shares of Common Stock shall be required to be issued, but in lieu thereof the Company may pay to such holder an amount in cash equal to any fractional share to which such holder would be entitled, multiplied by the then fair market value of the Common Stock as determined in accordance with Section 3 hereof.

(f) In case the Company shall at any time after the date of first issuance of the Series B Preferred Stock declare a dividend or make a distribution on Common Stock payable in Common Stock, subdivide or split the outstanding Common Stock, combine or reclassify the outstanding Common Stock into a smaller number of shares or consolidate with, or merge with or into, any other entity, or engage in any reorganization, reclassification or recapitalization that is effected in such a manner that the holders of Common Stock are entitled to receive stock, securities, cash or other assets with respect to or in exchange for Common Stock, then the kind and amount of stock, securities, cash or other assets issuable upon conversion of the Series B Preferred Stock in effect at the time of the record date for such dividend or distribution or of the effective date of such subdivision, split, combination, consolidation, merger, reorganization, reclassification or recapitalization shall be adjusted so that the conversion of the Series B Preferred Stock after such time shall entitle the holder to receive the aggregate number of shares of Common Stock or securities, cash and other assets that, if the Series B Preferred Stock had been converted immediately prior to such time, such holder would have owned upon such conversion and been entitled to receive by virtue of such dividend, distribution, subdivision, split, combination, consolidation, merger, reorganization, reclassification or recapitalization. Such adjustment shall be made successively whenever any event listed above shall occur. All calculations under this Section 8(f) shall be made to the nearest four decimal points. In the event that, at any time as a result of the provisions of this Section 8(f), the holder of the Series B Preferred Stock upon subsequent conversion shall become entitled to receive any securities other than Common Stock, the number and kind of such other securities so receivable upon conversion of the Series B Preferred Stock shall thereafter be subject to adjustment from time to time in a manner and on terms as nearly equivalent as practicable to the provisions contained herein.

(g) Upon the occurrence of each adjustment or readjustment pursuant to this Section 8, the Company, at its expense, shall promptly compute such adjustment or readjustment in accordance with the terms hereof and prepare and furnish to each holder of Series B Preferred Stock a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Company shall, upon the written request at any time of any holder of Series B Preferred Stock, furnish or cause to be furnished to such holder a certificate setting forth: (i) such adjustment or readjustment; (ii) the Series B Liquidation Value for the Series B Preferred Stock in effect prior and subsequent to such adjustment or readjustment at the time in effect; (iii) the number of shares of Common Stock into which

FAX AUDIT NO.: H02000240365 5

such Series B Preferred Stock is convertible; and (iv) the amount, if any, of cash or other property which at the time would be received upon conversion of a share of Series B Preferred Stock including without limitation a statement as to whether the Company, upon a voluntary conversion by such holder pursuant to Section 8(b) hereof, will pay accrued and unpaid dividends to such holder in cash or capital stock of the Company pursuant to Section 3(a) hereof.

(h) Any shares of Series B Preferred Stock that are converted pursuant to Section 8 hereof, shall be canceled and shall not be reissued, sold or transferred by the Company, and the Company shall take such appropriate corporate action within its corporate power, in the opinion of its counsel, necessary to reduce the number of authorized shares of the Company's capital stock.

9. *Series B Preferred Stock Restrictions and Limitations.* Until the consummation of a Qualified Offering and for so long as any shares of Series B Preferred Stock remain outstanding, the Company shall not, without the approval, by vote or written consent, of the holders of at least a majority of the then outstanding shares of Series B Preferred Stock:

(a) issue additional shares of Series A Preferred Stock or Series B Preferred Stock;

(b) create or issue any new class or series of stock with rights senior to or pari passu with the rights of the Series B Preferred Stock or enter into any contract or grant any option for the issuance of any such securities;

(c) redeem, repurchase or acquire any shares of its capital stock, other than repurchases by the Company of shares of Common Stock held by employees, officers, directors, consultants, independent contractors, advisors or other persons performing services for the Company or any subsidiary of the Company that are subject to a shareholders agreement, restricted stock purchase agreement or stock option agreement under which the Company has the option to repurchase such shares at such holder's cost or at any price pursuant to the Company's exercise of a right of first refusal to repurchase such shares;

(d) unless the holders of the Series B Preferred Stock receive full payment of their Series B Liquidation Preference, engage in a transaction or series of related transactions involving the assignment, sale, lease, contribution or other disposition or transfer of 50% or more of the Company's assets (whether by sale, license, merger, consolidation, liquidation, dissolution or otherwise);

(e) unless the holders of the Series B Preferred Stock receive full payment of their Series B Liquidation Preference, consummate any merger or consolidation in which the Company is a surviving party and which results in a change in a majority of the Voting Power of the Company; for purposes hereof, "Voting Power" means the right to vote or consent with respect to any shareholder action by virtue of

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holding of record shares of Common Stock, Series A Preferred Stock, Series B Preferred Stock or any other voting capital stock of the Company (giving then present effect to the voting rights of such Common Stock, Series A Preferred Stock, Series B Preferred Stock or other voting capital stock with respect to any matter on which all of the holders of the voting capital stock are voting together with the holders of the Common Stock as a single class); or

(f) create, incur or assume any indebtedness for borrowed money or any capitalized lease obligations in excess of \$2.5 million, individually or in the aggregate and on a cumulative basis.

10. *Preferred Stock Restrictions and Limitations.* Until the consummation of a Qualified Offering and for so long as any shares of Preferred Stock remain outstanding, the Company shall not, without the approval, by vote or written consent, of the holders of at least a majority of the then outstanding shares of Preferred Stock (on an "as converted basis"):

(a) amend or otherwise modify the Company's Articles of Incorporation;

(b) amend or otherwise modify the Company's Bylaws, as amended to date;

(c) effect a reclassification or recapitalization of the outstanding shares of the Company's capital stock;

(d) take any action that results in a material change in the nature of the Company's business;

(e) increase the number of shares of Common Stock available for issuance under the Company's stock option plan(s) or create or amend such other plan or agreement pursuant to which the Company issues options or other rights to purchase shares of Common Stock to its employees, officers, consultants and directors;

(f) effect any dissolution, liquidation or other winding up of the Company or any subsidiary thereof; or

(g) remove or appoint the Company's Chief Executive Officer.

11. *Amendments and Other Actions.* So long as shares of Series B Preferred Stock are outstanding, the Company shall not, without first obtaining the Majority B Consent (by vote or written consent) of Series B Preferred Stock, alter or change the rights, preferences or privileges of the Series B Preferred Stock or any other capital stock of the Company so as to adversely affect the Series B Preferred Stock. Notwithstanding the foregoing, and unless otherwise required by applicable law, the Company when authorized by resolutions of its Board of Directors may amend or supplement its Articles

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of Incorporation without the consent of any holder of Series B Preferred Stock or any holder of Common Stock to cure any ambiguity, defect or inconsistency in this Articles of Amendment that establishes the Series B Preferred Stock so long as such amendment would not adversely affect the Series B Preferred Stock.

12. *No Impairment.* The Company will not, by amendment of its Articles of Incorporation or through any reorganization, recapitalization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Company, but will at all times in good faith assist in the carrying out of all the provisions of this Articles of Amendment and in the taking of all such action as may be necessary or appropriate in order to protect the rights of the holders of the Series B Preferred Stock against impairment."

C. This Articles of Amendment of the Articles of Incorporation of the Company was duly adopted by the Board of Directors of the Company on December 13, 2002.

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IN WITNESS WHEREOF, US Biosystems, Inc. has caused this Articles of Amendment to Articles of Incorporation to be signed by the undersigned this 20 day of December, 2002.

US BIOSYSTEMS, INC.

By: *Keith Greenfield*

Name Keith Greenfield

Title: Chairman of the Board of Directors

FAX AUDIT NO.: H020000240365 5