

Division of Corporations

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Florida Department of State  
Division of Corporations  
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DIVISION OF CORPORATIONS

**COR AMND/RESTATE/CORRECT OR O/D RESIGN****VIATRONIX INCORPORATED**

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A. Arend

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**AMENDED AND RESTATED ARTICLES OF INCORPORATION  
FOR VIATRONIX INCORPORATED**

1. The name of the corporation is Viatronix Incorporated (the "Corporation").
2. Attached to this certificate are the Amended and Restated Articles Incorporation for the Corporation.
3. Article VI, "Board of Directors," of the Articles of Incorporation of the Corporation was amended by removing the last sentence thereof, which read "Directors may only be removed from office by the Shareholders, prior to the expiration of their term for cause."
4. The amendment to Article VI was duly adopted by the Shareholders of the Corporation, by a number sufficient for approval and present at the Annual Meeting of the Shareholders on January 18, 2005.
5. Section 1 of Article III, "Capital Stock" of the Articles of Incorporation of the Corporation was amended to increase the number of shares of (i) Common Stock authorized from 60,000,000 to 100,000,000 and (ii) Preferred Stock authorized from 10,000,000 to 20,000,000; and to read as follows:

**"ARTICLE III**

**Capital Stock**

1. The number of shares which this Corporation shall have authority to issue is One Hundred Million (100,000,000) shares of Common Stock with a par value of \$0.0001 per share and Twenty Million (20,000,000) shares of Preferred Stock with a par value of \$0.0001 per share."
6. The amendment to Section 1 of Article III was duly adopted by the Shareholders of the Corporation, by a number sufficient for approval and present at the Annual Meeting of the Shareholders on April 6, 2006.
7. Article III, "Capital Stock," of the Articles of Incorporation of the Corporation was amended to include a Section 5 as follows:

**"ARTICLE III**

**Capital Stock**

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5. Of the Twenty Million (20,000,000) authorized shares of Preferred Stock, Six Million Six Hundred Sixty Six Thousand Six Hundred Sixty Seven (6,666,667) shares of Preferred Stock shall hereinafter be designated as Series C Preferred Stock, subject to the following:

a. Dividends. The Series C Preferred Stock shall not accrue or accumulate any dividends, but shall participate *pro rata* with the Common Stock in any dividends declared and paid by the Corporation if, as and when any such dividends may be declared by the Board of Directors.

b. Voting. The holders of Series C Preferred Stock shall be entitled to one (1) vote per share together with the holders of Common Stock and shall vote as a separate series on all matters relating to or which may adversely affect the Series C Preferred Stock in accordance with Florida law.

c. Liquidation. In the event of any merger, consolidation, liquidation, dissolution, or reorganization or similar transaction that results in a change of control of the Corporation or a sale of all or substantially all of the assets of the Corporation (any of the foregoing events being referred to as a "Sale of the Corporation"), the holders of Series C Preferred Stock shall be entitled to receive: (i) in the event of a Sale of the Corporation at an aggregate gross purchase price of \$6,200,000 or less, prior to and in preference to the holders of Common Stock and Series A Preferred Stock, but not the Series B Preferred Stock, which shall be senior to the Series C Preferred Stock, an amount in cash equal to up to \$0.15 per share (the initial purchase price for each share) of Series C Preferred Stock held by such holders, or (ii) in the event of a Sale of the Corporation is at an aggregate gross purchase price in excess of \$6,200,000, the amount that would be received by the holders of Series C Preferred Stock as if they had converted each share of the Series C Preferred Stock to one (1) share of Common Stock immediately prior to the Sale of the Corporation.

d. Redemption. Shares of Series C Preferred Stock are non-redeemable."

8. The amendment of Article III to include Section 5 was duly recommended and adopted by the resolution of all the Board of Directors of the Corporation, which number is sufficient for approval, at a duly noticed meeting of such Directors on May 31, 2006. No shareholder approval was required.

9. The Amended and Restated Articles of Incorporation attached hereto were duly recommended and adopted by the resolution of all the Board of Directors of the Corporation, which number is sufficient for approval, at a duly noticed meeting of such Directors on May 31, 2006. No shareholder approval was required.

10. There are no discrepancies between the provisions of the Articles of Incorporation in effect prior hereto and the provisions of the Amended and Restated Articles of Incorporation set forth herein, other than as set forth herein.

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11. The Amended and Restated Articles of Incorporation attached hereto shall supersede and replace the Corporation's original Articles of Incorporation and any and all amendments thereto.

IN WITNESS WHEREOF, the undersigned, as President of the Corporation, acknowledges and has executed this certificate this 5<sup>th</sup> day of October, 2006, but effective as of May 31, 2006.

  
Zaffar Hayat, President

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**AMENDED AND RESTATED ARTICLES OF INCORPORATION  
OF  
VIATRONIX INCORPORATED**

**ARTICLE I**

**Name**

The name of the corporation is: Viatronix Incorporated (hereinafter referred to as the "Corporation").

**ARTICLE II**

**Principal Office**

The address of the principal office and mailing address of the Corporation is 25 Health Sciences Dr., Suite 203, Stony Brook, NY 11790.

**ARTICLE III**

**Capital Stock**

1. The number of shares which this Corporation shall have authority to issue is One Hundred Million (100,000,000) shares of Common Stock with a par value of \$0.0001 per share and Twenty Million (20,000,000) shares of Preferred Stock with a par value of \$0.0001 per share.

2. The Preferred Stock authorized by the Articles of Incorporation may be issued from time to time in one or more series. The Board of Directors is hereby authorized to fix or alter the designations, preferences, and relative, participating, optional, or other special rights and qualifications, limitations or restrictions of such Preferred Stock, including without limitation, dividend rights, dividend rates, conversion rights, voting rights, rights and terms of redemption (including sinking fund provisions), the redemption price or prices and liquidation preferences of any wholly unissued series of Preferred Stock, and the number of shares constituting any such series and the designation thereof, or any of them; and to increase or decrease the number of shares of any series, but not below the number of shares of such series then outstanding. In case the number of shares of any series shall be so decreased, the shares constituting such decrease shall resume the status that they had prior to the adoption of the resolution originally fixing the number of shares of such series.

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3. Of the Twenty Million (20,000,000) authorized shares of Preferred Stock, One Hundred Fifty Thousand (150,000) shares of Preferred Stock shall hereinafter be designated as Series A Preferred Stock, subject to the following terms:

a. The holders of Series A Preferred Stock shall have no voting or veto rights at any annual or special meeting of shareholders of the Corporation, or with respect to any matter that requires shareholder approval, except as required by law.

b. The holders of Series A Preferred Stock shall be entitled to payment of dividends, with respect to each share of Series A Preferred Stock, out of the funds of the Corporation legally available for the payment of dividends only if, as and when declared by the Board of Directors.

c. The holders of Series A Preferred Stock shall have conversion rights as follows:

i) Each share of Series A Preferred Stock shall automatically be convertible into ten (10) shares of Common Stock of the Corporation (hereinafter the "Automatic Conversion") upon:

(a) the closing of the Corporation's first underwritten public offering comprising the sale of Common Stock of the Corporation pursuant to an effective registration statement under the Securities Act of 1933 (as amended);

(b) the closing of a sale of all or substantially all of the assets of the Corporation;

(c) the closing of a reorganization, merger, consolidation or other corporate transaction involving the Corporation (a "Corporate Transaction"), in each case, with respect to which the shareholders of the Corporation immediately prior to such Corporation Transaction do not, immediately after the Corporate Transaction, own 60% or more of the combined voting power of the corporation resulting from such Corporate Transaction; or

(d) the approval by shareholders of the liquidation, dissolution, or winding up of the Corporation.

ii) Upon the Automatic Conversion, the Corporation shall provide the holders of the Series A Preferred Stock written notice of such event. Despite the date of the notice, the Automatic Conversion shall be deemed to have been effected immediately prior to the closing of the events described in this subsection i).

iii) As promptly as practicable after receiving written notice hereunder, the holders of Series A Preferred Stock shall surrender to the

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Corporation, at its principal office, the certificate or certificates representing the shares of Series A Preferred Stock. Thereafter, the Corporation shall deliver or cause to be delivered one or more certificates representing the aggregate number of validly issued, fully paid and nonassessable shares of Common Stock to which the holders of Series A Preferred Stock are entitled.

d. Shares of Series A Preferred Stock are non-redeemable.

e. In the event of the liquidation, dissolution, or winding up of the Corporation, whether voluntary or involuntary, the holders of the Series A Preferred Stock shall not be entitled to any liquidation preferences out of the assets of the Corporation available for distribution to shareholders. Under such distribution, the remaining assets of the Corporation shall be divided pro rata among all shares of Common Stock, inclusive of the shares of Common Stock into which shares of Series A Preferred Stock are convertible.

4. Of the Twenty Million (20,000,000) authorized shares of Preferred Stock, Eight Million Six Hundred Fifty Thousand (8,650,000) shares of Preferred Stock shall hereinafter be designated as Series B Preferred Stock, subject to the following:

a. Dividends. The Series B Preferred Stock shall not accrue or accumulate any dividends, but shall participate pro rata with the Common Stock in any dividends declared and paid by the Corporation if, as and when any such dividends may be declared by the Board of Directors.

b. Conversion. The Series B Preferred Stock may be converted into Common Stock at any time, in whole or in part, at the option of each holder of the Series B Preferred Stock. Each share of Series B Preferred Stock shall be converted into shares of Common Stock in a ratio equal to the Purchase Price per share of the Series B Preferred Stock divided by the Conversion Price. The "Conversion Price" initially shall be \$0.20. The Conversion Price shall be subject to adjustment as provided below.

(i) Automatic Conversion. In the event of: (1) an underwritten public offering of shares of the Corporation at a total offering of not less than \$5,200,000 at a price per share not less than the Purchase Price (a "Qualifying IPO"); or (2) the consent of the holders of at least a majority of the then outstanding shares of Series B Preferred Stock, the Series B Preferred Stock shall be automatically converted into Common Stock at the then applicable Conversion Price.

(ii) Adjustment Provisions. If the Corporation shall, at any time or from time to time after the issuance of the Series B Preferred Stock, effect a subdivision of the outstanding Common Stock, the Conversion Price then in effect immediately before that subdivision shall be proportionately decreased. If the Corporation shall at any time or from time to time after the issuance of the Series B Preferred Stock, combine the outstanding shares of Common Stock, the Conversion Price then in effect immediately before the combination shall be proportionately increased.

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Any adjustment shall become effective at the close of business on the date the subdivision or combination becomes effective.

c. Voting. The holders of Series B Preferred Stock shall vote with the holders of Common Stock on an as-converted basis and shall vote as a separate series on all matters relating to or which may adversely affect the Series B Preferred Stock in accordance with Florida law.

d. Liquidation. In the event of any merger, consolidation, liquidation, dissolution, or reorganization or similar transaction that results in a change of control of the Corporation or a sale of all or substantially all of the assets of the Corporation (any of the foregoing events being referred to as a "Sale of the Corporation"), the holders of Series B Preferred Stock shall be entitled to receive: (i) in the event of a Sale of the Corporation at an aggregate gross purchase price of \$5,200,000 or less, prior to and in preference to the holders of Common Stock and any other capital stock of the Corporation, an amount in cash equal to 100% of the purchase price for each share of Series B Preferred Stock held by such holders, or (ii) in the event of a Sale of the Corporation is at an aggregate gross purchase price in excess of \$5,200,000, the amount that would be received by the holders of Series B Preferred Stock if they had converted the Series B Preferred Stock to Common Stock immediately prior to the Sale of the Corporation (collectively, the "Liquidation Payments"). If the assets and funds thus distributed among the holders of the Series B Preferred Stock are insufficient to permit the payment to such holders of Liquidation Payments, then the entire assets and funds of the Corporation legally available for distribution shall be distributed among the holders of Series B Preferred Stock in proportion to the number of shares of Series B Preferred Stock held by each such holder.

e. Redemption. Shares of Series B Preferred Stock are non-redeemable.

5. Of the Twenty Million (20,000,000) authorized shares of Preferred Stock, Six Million Six Hundred Sixty Six Thousand Six Hundred Sixty Seven (6,666,667) shares of Preferred Stock shall hereinafter be designated as Series C Preferred Stock, subject to the following:

a. Dividends. The Series C Preferred Stock shall not accrue or accumulate any dividends, but shall participate pro rata with the Common Stock in any dividends declared and paid by the Corporation if, as and when any such dividends may be declared by the Board of Directors.

b. Voting. The holders of Series C Preferred Stock shall be entitled to one (1) vote per share together with the holders of Common Stock and shall vote as a separate series on all matters relating to or which may adversely affect the Series C Preferred Stock in accordance with Florida law.

c. Liquidation. In the event of any merger, consolidation, liquidation, dissolution, or reorganization or similar transaction that results in a change of

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control of the Corporation or a sale of all or substantially all of the assets of the Corporation) (any of the foregoing events being referred to as a "Sale of the Corporation"), the holders of Series C Preferred Stock shall be entitled to receive: (i) in the event of a Sale of the Corporation at an aggregate gross purchase price of \$6,200,000 or less, prior to and in preference to the holders of Common Stock and Series A Preferred Stock, but not the Series B Preferred Stock, which shall be senior to the Series C Preferred Stock, an amount in cash equal to up to \$0.15 per share (the initial purchase price for each share) of Series C Preferred Stock held by such holders, or (ii) in the event of a Sale of the Corporation is at an aggregate gross purchase price in excess of \$6,200,000, the amount that would be received by the holders of Series C Preferred Stock as if they had converted each share of the Series C Preferred Stock to one (1) share of Common Stock immediately prior to the Sale of the Corporation.

d. Redemption. Shares of Series C Preferred Stock are non-redeemable.

#### ARTICLE IV

##### Special Meeting

The Corporation shall hold a special meeting of shareholders only:

- (1) On call of the board of directors or persons authorized to do so by the Corporation's bylaws; or
- (2) If the holders of not less than 50 percent of all votes entitled to be cast on any issue proposed to be considered at the proposed special meeting sign, date, and deliver to the Corporation's secretary one or more written demands for the meeting describing the purpose or purposes for which it is to be held.

#### ARTICLE V

##### Initial Registered Office

The street address of the Corporation's initial registered office in the State of Florida is 1201 Hays Street, Tallahassee, FL 32301 and the name of its initial registered agent at such office is Corporation Service Company.

#### ARTICLE VI

##### Board of Directors

The Board of Directors of the Corporation shall consist of at least four directors, with the exact number to be fixed from time to time in the manner provided in the Corporation's bylaws.

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## **ARTICLE VII**

### **Incorporator**

The name of the Incorporator is Louis R. Montello and the address of the Incorporator is 701 Brickell Avenue, Suite 1200, Miami, Florida 33131.

## **ARTICLE VIII**

### **Indemnification**

This Corporation shall indemnify and shall advance expenses on behalf of its officers and directors to the fullest extent not prohibited by any law in existence either now or hereafter.

**IN WITNESS WHEREOF**, the Corporation has caused the foregoing Amended and Restated Articles of Incorporation to be signed as of October \_\_, 2006, but effective as of May 31, 2006.

**VIATRONIX INCORPORATED**

By:   
Zaffar Hayat, President

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