# IMPERIAL MEDICAL, INC.

15251 Roosevelt Blvd. Ste. 202, Clearwater, Florida 33760, Phone (813) 535-6055, Fax (813) 535- 2996

P96000099751

24 February, 1998

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*****35.00 *****35.00

Florida - Secretary of State
Divisions of Corporations
P.O. Box 6327
Tallahassee, FL 32314

**Re: Amended and Restated Articles of Incorporation for Imperial Medical, Inc.**

**Dear Sirs:**

**Please find enclosed an original and a copy of the Amended and Restated Articles of Incorporation for Imperial Medical, Inc. Also, please find enclosed the $35.00 fee for a copy to be returned.**

**Thank you for your kind assistance in this matter.**

**Sincerely,**

**Kevin O. Dean,**
**Sect./Treasurer**

**KOD/jr**

**enclosure**

FILED
98 MAR 18 PM 12:07
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Amended & Restated

Called to Correct
Address in art IV

LFG
3-18-98

~~$789,615,611~~

# IMPERIAL MEDICAL, INC.

15251 Roosevelt Blvd. Ste. 202, Clearwater, Florida 33760, Phone (813) 535-6055, Fax (813) 535- 2996

March 16, 1998

Ms Louise Flemming-Jackson
Corporate Specialist Supervisor
Florida Department of State
Division of Corporations
P.O. Box 6327
Tallahassee, Florida 32314

Dear Ms Jackson:

Thank you very much for you assistance and help on the phone today. I must say that you have been most helpful and patient with me during my efforts to amend and restate the articles of incorporation.

Please find enclosed the two pages you asked me to print and send to you. I have done as you asked and removed some of the excess verbiage used in the document.

Thank you once again for your help and assistance in this matter.

Warmest Regards,

Kevin O. Dean

FLORIDA DEPARTMENT OF STATE
Sandra B. Mortham
Secretary of State

March 4, 1998

Kevin O. Dean
% IMPERIAL MEDICAL, INC.
15251 Roosevelt Blvd., Suite 202
Clearwater, FL 33760

SUBJECT: IMPERIAL MEDICAL, INC.
Ref. Number: P96000099751

We have received your document for IMPERIAL MEDICAL, INC. and your check(s) totaling $35.00. However, the enclosed document has not been filed and is being returned for the following correction(s):

The document must contain written acceptance by the registered agent, (i.e. "I hereby am familiar with and accept the duties and responsibilities as registered agent for said corporation/limited liability company"); and the registered agent's signature.

Please return your document, along with a copy of this letter, within 60 days or your filing will be considered abandoned.

If you have any questions concerning the filing of your document, please call (850) 487-6910.

Louise Flemming-Jackson
Corporate Specialist Supervisor

Letter Number: 698A00012004

FILED
98 MAR 18 PM 12:07
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

# AMENDED AND RESTATED ARTICLES OF INCORPORATION OF IMPERIAL MEDICAL, INC.

I, Kevin 0. Dean, being the Incorporator, Director and Secretary/Treasurer of Imperial Medical, Inc., a Florida corporation (the "Corporation" or the "Company"), hereby certifies:

1. The name of the Corporation is Imperial Medical, Inc. The name under which the Corporation was incorporated on December 9, 1996 was "Imperial Medical, Inc."

2. The text of the Articles of Incorporation is hereby amended and restated to read in its entirety as follows:

## ARTICLE I - NAME

The name of the Corporation is Imperial Medical, Inc.

## ARTICLE II - PURPOSE

The purpose of the Corporation is to engage in any lawful act or activity for which a corporation may be organized under the Florida Business Corporation Act.

## ARTICLE III - PRINCIPAL OFFICE

The principal place of business and mailing address of the Corporation is 15251 Roosevelt Boulevard, Suite 202, Clearwater, Florida 33760.

## ARTICLE IV - REGISTERED OFFICE AND AGENT

The address of the registered office for the Corporation in the State of Florida is 15251 Roosevelt Blvd., Ste. 202, Clearwater, Florida 33760. The name of its registered agent at that address is Kevin O. Dean.

## ARTICLE V - CAPITAL STOCK

The aggregate number of shares of capital stock which the Corporation has authority to issue is 2,000,000 shares, which shall consist of 1,500,000 shares of common stock, $.001 par value ("Common Stock"), and 500,000 shares of preferred stock, $.001 par value ("Preferred

Stock"). No shareholder of any stock of this Corporation shall have preemptive rights. There shall be no cumulative voting by the shareholders of the Corporation.

A. Common Stock. Subject to the preferential dividend rights applicable to shares of any series of Preferred Stock, the holders of shares of Common Stock shall be entitled to receive such dividends as may be declared by the Board of Directors. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, after distribution in full of the preferential amounts to be distributed to the holders of shares of the Preferred Stock, the holders of shares of the Common Stock shall be entitled to receive all of the remaining assets of the Corporation available for distribution to its shareholders, ratably in proportion to the number of shares of the Common Stock held by them. Except as otherwise provided in Subsection 1 of Section B of this Article V, each share of Common Stock shall have one (1) vote on all matters that are submitted to shareholders for vote.

Shares of Common Stock may be issued by the Corporation for such consideration, having a value of not less than the par value thereof, as is determined by the Board of Directors.

B. Preferred Stock. The Preferred Stock, other than the 10% Series A Cumulative Redeemable Preferred Stock designated below, may be issued by the Board of Directors, from time to time, in one or more series. Authority is hereby vested solely in the Board of Directors of the Corporation to provide, from time to time, for the issuance of Preferred Stock in one or more series and in connection therewith to determine without shareholder approval, the number of shares to be included and such of the designations, powers, preferences, and relative rights and the qualifications, limitations, and restrictions of any such series, - including, without limiting the generality of the foregoing, any of the following provisions with respect to which the Board of Directors shall determine to make affirmative provision:

1. The designation and name of such series and the number of shares that shall constitute such series;

2. The annual dividend rate or rates payable on shares of such series, the date or dates from which such dividends shall commence to accrue, and the dividend payment dates for such dividends;

3. Whether dividends on such series are to be cumulative or noncumulative, and the participating or other special rights, if any, with respect to the payment of dividends;

4. Whether such series shall be subject to redemption and, if so, the manner of redemption, the redemption price or prices and the terms and conditions on which shares of such series may be redeemed;

5. Whether such series shall have a sinking fund or other retirement provisions for the redemption or purchase of shares of such series, and, if so, the terms and amount of such sinking fund or other retirement provisions and the extent to which the charges therefore are to have priority over the payment of dividends on or the making of sinking fund or other like retirement provisions for shares of any other series or over the payment of dividends on the Common Stock;

6. The amounts payable on shares of such series on voluntary or involuntary dissolution, liquidation, or winding up of the affairs of the corporation and the extent to which such payment shall have priority over the payment of any amount on voluntary or involuntary dissolution, liquidation, or winding up of the affairs of the corporation on shares of any other series or on the Common Stock;

7. The terms and conditions, if any, on which shares of such series may be converted into, or exchanged for, shares of any other series or of Common Stock;

8. The extent of the voting powers, if any, of the shares of such series;

9. The stated value, if any, for the shares of such series, the consideration for which shares of such series may be issued and the amount of such consideration that shall be credited to the capital account; and

10. Any other preferences and relative, participating, optional, or other special rights, and qualifications, limitations or restrictions thereof, or any other term or provision of shares of such series as the Board of Directors may deem appropriate or desirable.

The Board of Directors are expressly authorized to vary the provisions relating to the foregoing matters between the various series of Preferred Stock.

All shares of Preferred Stock of any one series shall be identical in all respects with all other shares of such series, except that shares of any one series issued at different times may differ as to the dates from which dividends thereon shall be payable, and if cumulative, shall cumulate.

Shares of any series of Preferred Stock (including the 10% Series A Cumulative Redeemable Preferred Stock designated below) that shall be issued and thereafter acquired by the Corporation through purchase, redemption (whether through the operation of a sinking fund or otherwise), conversion, exchange, or otherwise, shall, upon appropriate filing and recording to the extent required by law, have the status of authorized and unissued shares of Preferred Stock and may be reissued as part of such series or as part of any other series of Preferred Stock. Unless otherwise provided in the resolution or resolutions of the Board of Directors providing for the issuance thereof, the number of authorized shares of stock of any series of Preferred Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by resolution or resolutions of the Board of Directors and appropriate filing and recording to the extent required by law. In case the number of shares of any such series of Preferred Stock shall be decreased, the shares representing such decrease shall, unless otherwise provided in the resolution or resolutions of the Board of Directors providing for the issuance thereof, resume the status of authorized but unissued shares of Preferred Stock, undesignated as to series.

Section 1. 10% Series A Cumulative Redeemable Preferred Stock. 250,000 shares of the authorized and unissued shares of $.001 par value Preferred Stock of the Corporation are hereby designated "10% Series A Cumulative Redeemable Preferred Stock" (the "Series A Preferred Stock") with the following powers, preferences and rights, and the qualifications, limitations and restrictions thereon:

(a) Dividends. Holders of shares of Series A Preferred Stock and of any other capital stock of the Company ranking junior to the Series A Preferred Stock as to payment

of dividends, shall be entitled to receive, out of the net profits or net assets of the Company legally available for the payment of dividends, cumulative cash dividends at the annual rate of $.20 per share and no more. Dividends payable on the Series A Preferred Stock shall begin to accrue and be cumulative from the date of original issuance of the Series A Preferred Stock. The amount of dividends so payable shall be determined on the basis of a 365-day year. Accrued, but unpaid, dividends shall not bear any interest.

Accrued and unpaid dividends are payable out of the net profits or net assets of the Company legally available for the payment of dividends, in cash on an annual basis payable in the month following the end of each year, commencing at the end of the fourth calendar quarter of 1998. Dividends paid on the shares of Series A Preferred Stock in an amount less than the total amount of such dividends at the time accrued and payable on such shares shall be allocated pro rata on a share-by-share basis among all such shares at the time outstanding. The Board of Directors may fix a record date for the determination of holders of shares of Series A Preferred Stock entitled to receive payment of a dividend declared thereon, which record date shall be no more than 60 days prior to the date fixed for the payment thereof.

(b) Voting.

(i) Voting with Common Stock. Except as otherwise provided by law and hereinbelow, holders of the Series A Preferred Stock will be entitled to vote with the Common Stock, voting together as a single class, on all matters to be voted on by the Company's shareholders, with each share of Preferred Stock entitled to one vote per share.

(ii) Voting on extraordinary matters. In addition to the voting rights provided under Subsection (b) (ii) hereinabove, and such voting rights as are required by law, so long as shares of Series A Preferred Stock shall be outstanding and unless the consent or approval of a greater number of shares shall then be required by law, without first obtaining the approval of the holders of at least a majority of the number of shares of the Series A Preferred Stock at the time outstanding, given in person or by proxy either by written consent or at a meeting at which the holders of such shares shall be entitled to vote separately as a class, the Company shall not: (a) create, authorize or issue any shares of any class or series of stock of the Company ranking prior to or pari passu with the shares of the Series A Preferred Stock as to dividends or upon liquidation or otherwise, or reclassify and authorized stock of the Company into any such shares, or create, authorize or issue any obligation or security convertible into or evidencing the right to purchase any such shares; (b) amend, alter or repeal any of the provisions of the articles of incorporation or by-laws of the Company or of any certificate amendatory thereof or supplemental thereto so as to affect adversely any of the preferences, rights, powers or privileges of the Series A Preferred Stock or the holders thereof; or (c) be a party to any transaction involving a merger, consolidation or sale of all or substantially all of the Company's assets in which the shares of Series A Preferred Stock either remain outstanding or are converted into the right to receive equity securities or the surviving, resulting or acquiring company (meaning the company whose securities are delivered in exchange for assets or securities of the Company) unless such company shall have, after such merger, consolidation or sale, no equity securities either authorized or outstanding (except such stock of the Company as may have been authorized or outstanding immediately preceding such merger or consolidation or such stock of the surviving, resulting or acquiring company as may be issued in exchange therefor) ranking prior, as to dividends or in liquidation, to the Series A Preferred Stock or to the stock of the surviving, resulting or acquiring company issued in exchange therefor.

(c) Liquidation.

(i) Upon any liquidation, dissolution or winding up of the Company, each holder of Series A Preferred Stock will be entitled to be paid, before any distribution or payment is made upon the Common Stock or any other capital stock of the Company ranking junior to the Series A Preferred Stock as to payment of liquidation distributions an amount in cash equal to the aggregate Liquidation Value (as defined) of all shares of Series A Preferred Stock held by such holder. For purposes hereof, "Liquidation Value" shall mean $2.00 per share of Series A Preferred Stock plus unpaid and accrued dividends thereon.

(ii) if upon any such liquidation, dissolution or winding up of the Company the assets of the Company to be distributed among the holders of the Series A Preferred Stock are insufficient to permit payment to such holders of the aggregate amount which they are entitled to be paid hereunder, then the assets to be distributed to such holders will be distributed ratably among such holders, based upon the aggregate Liquidation Value of the Series A Preferred Stock held by each such holder.

(iii) The Company will mail written notice of such liquidation, dissolution or winding up, not less than sixty (60) days prior to the payment date stated therein, to each record holder of the Series A Preferred Stock. Neither the consolidation or merger of the Company into or with any other company or companies, nor the sale or transfer by the Company of all or any part of its assets, nor the reduction of the capital stock of the Company, will be deemed to be a liquidation, dissolution or winding up of the Company within the meaning of this Subsection (c).

(d) Put Right of Series A Preferred Stock.

(i) At any time after the first to occur of (i) December 31, 2000 or (ii) the consummation of a Public Offering, the holders of any shares of Series A Preferred Stock shall have the right (the "Preferred Stock Put") to require the Company to purchase all but not less than all the Series A Preferred Stock owned by such holder (the "Exercising Preferred Stock Holder" at a price (the "Preferred Stock Put Price") equal to $2.00 per share plus all accrued and unpaid dividends thereon. For purposes herein, "Public Offering" shall mean the sale of shares of the Company's Common Stock (however designated and whether voting or non-voting) or any and all rights, warrants or options to acquire such Common Stock, pursuant to a registration statement on Form S-1 or Form SB-2 under the Securities Act of 1933, as amended.

(ii) The Exercising Preferred Stock Holder shall notify the Company of the exercise of the Put in a written notice (the "Preferred Stock Put Notice") specifying the number of shares of Series A Preferred Stock to be purchased by the Company. Within ten (10) days of the Preferred Stock Put Notice, the Company shall purchase the Series A Preferred Stock at a closing (the "Preferred Stock Put Closing") at which the Company shall pay to the Exercising Preferred Stock Holder the Preferred Stock Put Price in cash and the Exercising Preferred Stock Holder shall deliver to the Company, the certificates representing the shares of Series A Preferred Stock subject to the Preferred Stock Put, together with executed stock powers sufficient to transfer such shares to the Company. The Preferred Stock Put Closing shall take place at the offices of the Company at 10:00 a.m. on the tenth day following the Preferred Stock Put Notice, unless the Exercising Preferred Stock Holder and the Company agree to another time and place.

(e) Call Right of Preferred Stock.

(i) At any time after the first to occur of (i) December 31, 2000, (ii) the consummation of a Public Offering or (iii) a Change of Control, the Company shall have the right to require all of the holders of Series A Preferred Stock to sell to the Company all, but not less than all, of the Series A Preferred Stock owned by such holders (the "Preferred Stock Call") at a price (the "Preferred Stock Call Price") equal to $2.00 per share plus all accrued and unpaid dividends thereon. For purposes hereof "Change of-Control" means (i) the sale, lease or transfer of all or substantially all of the assets of the Company and any of its subsidiaries existing on or after the date of the Private Placement Memorandum (the "Private Placement Memorandum") pursuant to which the Series A Preferred Stock was issued, taken as a whole to any person or group (as such term is used in Section 13 (d) (3) of the Securities Exchange Act of 1934) , (ii) the liquidation or dissolution of the Company or any Material Subsidiary (as hereafter defined), (iii) the acquisition by any person or group, by way of merger, consolidation or otherwise, of securities of the Company having a direct or indirect majority interest (more than 50%) of the combined voting power of the voting stock of the Company, or (iv) one or more changes in the aggregate composition of the Company's Board of Directors as a result of which individuals who, as of the date of the Private Placement Memorandum, constitute the Company's Board of Directors (the "Incumbent Board"), subsequently cease for any reason to constitute at least a majority of the Company's Board of Directors, provided, however, that any individual becoming a director of the Company subsequent to the date of the Private Placement Memorandum who shall have been elected by at least a majority of the directors then consisting of the Incumbent Board, or whose nomination for election by the Company's shareholders shall have been approved by a vote of at least a majority of the directors then constituting the Incumbent Board, shall be considered as though such individual is a member of the Incumbent Board. For purposes hereof "Material Subsidiary" means any subsidiary with respect to which the Company has directly or indirectly invested, loaned, advanced or guaranteed the obligations of, an aggregate amount exceeding fifteen percent (15%) of the Company's gross assets or net income of which (based on the subsidiary's most recent financial statements) exceed fifteen percent (15%) of the Company's gross assets or net income, respectively, or the gross revenues of the Company based upon the most recent financial statements of such Subsidiary and the Company.

(ii) The Company shall notify the holders of Series A Preferred Stock of the exercise of the Preferred Stock Call in a written notice to each holder thereof (the "Preferred Stock Call Notice"). Within ten (10) days of the Preferred Stock Call Notice, the Company shall purchase the Preferred Stock at a closing (the "Preferred Stock Call Closing") at which the Company shall pay to the Series A Preferred shareholders the Preferred Stock Call Price in cash and the holders of Series A Preferred Stock shall deliver to the Company, the certificates representing all of their shares of Preferred Stock, together with executed stock powers sufficient to transfer such shares to the Company. The Preferred Stock Call Closing shall take place at the offices of the Company at 10:00 am on the tenth day following the Preferred Stock Call Notice, unless the Series A Preferred shareholders and the Company agree to another time and place.

(iii) The Company may exercise the Preferred Stock Call if such action is approved by a majority of the members of the Company's Board of Directors.

## ARTICLE VI - DIRECTORS

A. Number. The number of directors constituting the entire Board of Directors shall be not less than three nor more than nine as fixed from time to time by resolution of the Board of Directors, provided, however, that the number of directors shall not be reduced so as to shorten the term of any director at the time in office.

B. Vacancies. Newly created directorships resulting from any increase in the number of directors or any vacancy on the Board of Directors resulting from death, resignation, disqualification, removal or other cause shall be filled solely by the affirmative vote of a majority of the remaining directors then in office, even though less than a quorum, or by a sole remaining director, or by the shareholders. Any director elected in accordance with the preceding sentence shall hold office for the remainder of the full term of the class of directors in which the new directorship was created or the vacancy occurred and until such director's successor shall have been elected and qualified.

## ARTICLE VII - BYLAWS

The Board of Directors is expressly authorized to adopt, amend or repeal the Bylaws of the Corporation, subject to the power of the shareholders to adopt, amend or repeal such Bylaws.

## ARTICLE VIII - INDEMNIFICATION

The Corporation shall, to the fullest extent permitted by the laws of Florida, including, but not limited to Section 607.0850 of the Florida Business Corporation Act, as the same may be amended and supplemented from time to time, indemnify any and all directors and officers of the Corporation and may, in the discretion of the Board of Directors of the Corporation, indemnify any and all other persons whom it shall have power to indemnify under said Section or otherwise under Florida law, from and against any and all of the liabilities, expenses or other matters referred to or covered by said Section. The indemnification provisions contained in the Florida Business Corporation Act shall not be deemed exclusive of any other rights of which those indemnified may be entitled under any bylaw, or otherwise. No provision of these Amended and Restated Articles of Incorporation is intended by the Corporation to be construed as limiting, prohibiting, denying or abrogating any of the general or specific powers or rights conferred under the Florida Business Corporation Act upon the Corporation, upon its shareholders, bondholders and security holders, or upon its directors, officers and other corporate personnel, including, in particular, the power of the Corporation to furnish indemnification to directors, officers, employees and agents (and their heirs, executors and administrators) in the capacities defined and prescribed by the Florida Business Corporation Act and the defined and prescribed rights of said persons to indemnification as the same are conferred under the Florida Business Corporation Act.

## ARTICLE IX
## SUPER-MAJORITY VOTE FOR BUSINESS COMBINATIONS

A. The affirmative vote of the holders of not less than two-thirds of the outstanding shares of this Corporation's voting stock (other than the shares beneficially owned by an "Acquiring Person" as hereinafter defined) shall be required for the approval or authorization of

any "Business Combination" (as hereinafter defined) of this Corporation or any subsidiary of this Corporation with any Acquiring Person, notwithstanding the fact that no vote may be required, or that a lesser percentage may be specified by law or otherwise; provided however, that the two-thirds voting requirement shall not be applicable and such Business Combination shall require only such affirmative vote as is required by law or otherwise if: (a) the Board of Directors of this Corporation by at least an affirmative vote of a majority of the disinterested directors then on the Board has expressly approved such Business Combination either in advance of or subsequent to such Acquiring Person becoming an Acquiring Person; or (b) as of the date of the consummation of a Business Combination, the holders of a particular class or series of capital stock, as the case may be, of this Corporation receive a "fair price" as such term is defined below.

B. For the purpose of this Article IX:

1. The term "Business Combination" shall mean any (i) merger or consolidation of this Corporation or a subsidiary of this Corporation with an Acquiring Person or any other corporation which is or after such merger or consolidation would be an "Affiliate" or "Associate" (as hereinafter defined) of an Acquiring Person; (ii) sale, lease, exchange, mortgage, pledge or transfer or other disposition (in one transaction or a series of transactions) to or with any Acquiring Person or any Affiliate of any Acquiring Person, of all or substantially all of the assets of this Corporation or a subsidiary of this Corporation to an Acquiring Person or any Affiliate or Associate of any Acquiring Person; (iii) adoption of any plan or proposal for the liquidation or dissolution of this Corporation proposed by or on behalf of an Acquiring Person or any Affiliate or Associate of any Acquiring Person; (iv) reclassification of securities (including any reverse stock split) or recapitalization of this Corporation or any other transaction that would have the effect, either directly or indirectly, of increasing the proportionate share of any subsidiary of this Corporation which is directly or indirectly beneficially owned by an Acquiring Person or any Affiliate or Associate of any Acquiring Person; and (v) an agreement, contract or other arrangement providing for any of the transactions described in this definition of Business Combination.

2. The term "fair market value" shall mean (i) in the case of shares, the highest closing sale price quoted during the 30-day calendar period immediately preceding the Business Combination on the National Association of Securities Dealers, Inc., automated quotations system or any similar system then in general use, or if such shares are listed on an exchange, the highest closing bid quotation with respect to the shares during the 30-day calendar period preceding the date in question, or, if no such quotations are available, the fair market value of a share on the date in question as determined by the affirmative vote of a majority of the disinterested directors then on the Board; and (ii) in the case of property other than cash or shares, the fair market value of such property on the date in question as determined by the affirmative vote of a majority of the disinterested directors then on the Board.

3. The term "fair price" shall mean that the aggregate amount of cash and the fair market value of consideration other than cash to be received per

share are at least equal to the highest of the following: (i) if applicable, the highest per share price, including any brokerage commissions, transfer taxes, and soliciting dealers' fees, paid by the Acquiring Person for any shares acquired by it within the two year period immediately preceding the consummation of the Business Combination or the transaction in which it became an Acquiring Person, whichever is higher; or (ii) the fair market value per share.

4. The term "person" shall mean any individual, firm, corporation or other entity and shall include any group comprised of any person and any other person with whom such person or any Affiliate or Associate of such person has any agreement, arrangement or understanding, directly or indirectly, for the purpose of acquiring, holding, voting or disposing of voting stock of this Corporation.

5. The term "Acquiring Person" shall mean any person (other than this Corporation, or any subsidiary and other than any profit-sharing, employee stock ownership or other employee benefit plan of this Corporation or any subsidiary or any trustee of or fiduciary with respect to any such plan when acting in such capacity) who or which: (i) is the beneficial owner (as hereinafter defined) of ten percent (10%) or more of the voting stock; (ii) is an Affiliate or Associate of this Corporation and at any time within the two year period immediately prior to the date in question was the beneficial owner of ten percent (10%) or more of the voting stock; (iii) is at such time an assignee of or has otherwise succeeded to the beneficial ownership of any shares of voting stock which were at any time within the two year period immediately prior to the date in question beneficially owned by any Acquiring Person, if such assignment or succession shall have occurred in the course of a transaction or series of transactions not involving a public offering within the meaning of the Securities Act of 1933.

6. A person shall be a beneficial owner of any voting stock: (i) which such person or any of its Affiliates or Associates beneficially owns, directly or indirectly; or (ii) which such person or any of its Affiliates or Associates has, directly or indirectly, (a) the right to acquire whether such right is ex or indirectly, (a) the right to acquire whether such right is excisable immediately or not, pursuant to any agreement, arrangement or understanding or upon the exercise of conversion rights, exchange rights, warrants or options, or otherwise; (b) the right to vote pursuant to any agreement, arrangement or understanding; or (c) which are beneficially owned, directly or indirectly, by any other person by which such person or any of its Affiliates or Associates has any agreement, arrangement or understanding for the purpose of acquiring, holding, voting or disposing of any shares of voting stock.

7. The terms "Affiliate" or "Associate" shall have the respective meanings ascribed to such terms in Rule 12b-2 of the General Rules and Regulations under the Securities Exchange Act of 1934, as in effect on August 25, 1996.

8. An Acquiring Person shall be deemed to have acquired a share of the voting stock of this Corporation at the time when such Acquiring Person became the beneficial owner thereof.

C. The Board of Directors of this Corporation shall have the power and duty to determine for the purposes of this Article IX, on the basis of information known to them after reasonable inquiry, (1) whether a person is an Acquiring Person, (2) the number of shares of Common Stock beneficially owned by any person, (3) whether a person is an Affiliate or Associate of another.

D. Nothing contained in this Article IX shall be construed to relieve any Acquiring Person or any of its Affiliates or Associates from any fiduciary obligation imposed by law.

## ARTICLE X
## EVALUATION OF BUSINESS COMBINATIONS

The Board of Directors of this Corporation, when evaluating any offer of another party, (a) to make a tender offer for any securities of this Corporation or (b) to effect a Business Combination (as defined in Article X) shall, in connection with the exercise of its judgment in determining what is in the best interests of this Corporation as a whole, be authorized to give due consideration to such factors as the Board of Directors determines to be relevant, including, without limitation:

(i) the interests of this Corporation's shareholders;

(ii) whether the proposed transaction might violate federal or state laws;

(iii) the consideration being offered in the proposed transaction, in relation to the then current market price for the outstanding shares of this Corporation over a period of years, the estimated price that might be achieved in a negotiated sale of this Corporation as a whole or in part or through orderly liquidation, the premiums over market price for the securities of other companies engaged in similar transactions, current political, economic and other factors bearing on securities' prices and this Corporation's financial condition and future prospects; and

(iv) the social, legal and economic effects upon employees, suppliers, customers and others having similar relationships with this Corporation, and the communities in which this Corporation conducts its business.

In connection with any such evaluation, the Board of Directors is authorized to conduct such investigations and to engage in such legal proceedings to test the legal propriety of proposed offers or transactions as the Board of Directors may determine.

## ARTICLE XI - AMENDMENT

1. This corporation reserves the right to amend or repeal any provisions contained in these Articles of Incorporation, or any amendment hereto, and any right conferred upon the shareholders is subject to this reservation; provided, however, notwithstanding any other provisions of these Articles of Incorporation or the ByLaws of this Corporation (and notwithstanding the fact that a lesser percentage may be specified by law, in these Articles of Incorporation or the ByLaws of this Corporation), the affirmative vote of the holders of not less than two-thirds of the outstanding shares of this Corporation's voting stock [other than the shares beneficially owned by an "Acquiring Person" (as defined in Article IX hereof)], shall be required to amend, repeal or adopt any provisions inconsistent with Articles IX through XI of these Articles of Incorporation, in addition to any affirmative vote required by law or these Articles of Incorporation with respect to any other shares of capital stock of this Corporation.

2. The foregoing Amended and Restated Articles of Incorporation of this Corporation was duly approved by the Board of Directors by unanimous written consent, dated FEB. 8, 1998.

3. The total number of outstanding shares of this Corporation is 10,100 shares of Common Stock. The foregoing Amended and Restated Articles of Incorporation of this Corporation was duly approved by written consent of the holders of a majority of the Corporation's issued and outstanding Common Stock, dated FEB. 8, 1998, representing the number of votes sufficient for approval of the Amended and Restated Articles of Incorporation.

I, the undersigned, hereby am familiar with and accept the duties and responsibilities as the registered agent for said corporation, Imperial Medical, Inc. this 16 day of MARCH, 1998.

IMPERIAL MEDICAL, INC.

By: K. O'R

Kevin O. Dean,
Registered Agent/Secretary