EXHIBIT 3  
  
  
 PLEDGE AGREEMENT  
  
  
 In consideration of a loan made by Inverness Medical Innovations, Inc., a  
Delaware corporation (together with any successor thereto, the "Company"), to  
Xxx Xxxxxxxxx ("Borrower"), under the Promissory Note dated August 16, 2001, and  
any renewals or extensions thereof made in the sole discretion of the Company  
("Note"), Borrower agrees as follows:  
  
 Section 1. PLEDGE. Borrower hereby pledges, assigns and transfers to the  
Company, and grants to the Company a security interest in, the following  
property ("Collateral"), to be held by the Company:  
  
 (a) The 152.741423722644 shares of Common Stock of the Company  
(each, together with any successor securities, a "Share") obtained pursuant to a  
certain Restricted Stock Agreement dated as of August 15, 2001 between Borrower  
and the Company (the "Restricted Stock Agreement") and held by Borrower, or any  
Permitted Transferee (as that term is defined in the Restricted Stock  
Agreement), and any securities owned in respect thereof or in exchange therefor.  
  
 (b) All other securities, instruments and other property issued or  
accepted in substitution for or in addition to any of the foregoing.  
  
 (c) All proceeds of any and all of the Collateral.  
  
 Section 2. OBLIGATIONS. This Agreement and the security interest granted  
hereby secure the payment of all obligations of Borrower to the Company under  
the Note ("Obligations"), and the Obligations of Borrower under this Agreement,  
and any and all renewals or extensions thereof. So long as any of the  
Obligations are outstanding, unless and until Borrower shall be in default  
hereunder or there shall be any default of any of the Obligations, Borrower  
shall retain all rights to dividends and distributions and voting rights, if  
any, with respect to the Collateral. In the event the Obligations shall be in  
default or in the event that Borrower shall be in default under the terms  
hereof, the Company may, in its discretion, vote and exercise all of the powers  
of an owner with respect to any of the relevant Collateral. Without limiting the  
generality of the other remedies provided herein and in addition thereto, in the  
event any of the Obligations shall be in default or upon any default by Borrower  
hereunder, the Company after the occurrence of an Event of Default may take all  
steps necessary to cause the Collateral to be transferred into the name of the  
Company, including but not limited to taking steps necessary to comply with  
restrictions on sale or transfer of the shares constituting such Collateral, and  
in connection therewith Borrower appoints the Company such Borrower's  
attorney-in-fact to execute and deliver such offers, tender offers,  
certificates, documents or instruments of every nature or description required  
for the purpose of the transfer of such shares into the name of the Company, or  
any other person.  
  
  
  
  
 If Borrower receives any cash distribution or dividend in respect of any  
Collateral, Borrower may retain such cash distribution or dividend as his own  
property unless prior to such receipt an Event of Default has occurred, in which  
event Borrower shall accept same in trust for the Company, and shall upon  
request deliver same immediately to the Company in the form received, with  
Borrower's endorsement and/or assignment when necessary, to be held by the  
Company as Collateral.  
  
 If Borrower receives any stock certificate or option or deferred  
compensation right, whether as an addition to, in substitution of, or in  
exchange for, any Collateral, or otherwise, Borrower shall accept same in trust  
for the Company, and shall upon request deliver same immediately to the Company  
in the form received, with Borrower's endorsement and/or assignment when  
necessary, to be held by the Company as Collateral.  
  
 Borrower is herewith delivering to the Company all certificates or  
instruments representing or evidencing Collateral in suitable form for transfer  
or delivery, or accompanied by duly executed instruments of transfer or  
assignment to be held subject to the preceding paragraph.  
  
 Section 3. RESTRICTED STOCK AGREEMENT. Borrower acknowledges that  
transfer of the Shares is subject to certain restrictions under the Restricted  
Stock Agreement. The obligation of the Company to release certificates  
representing Shares to Borrower or his designee hereunder shall in any event be  
subject to the requirements of the Restricted Stock Agreement. Subject to such  
requirements and the terms hereof, the Company shall release from this pledge  
Vested Shares or Restricted Shares (as those terms are defined in the Restricted  
Stock Agreement) as designated by Borrower, provided that such Shares shall  
remain subject to the Restricted Stock Agreement to the extent applicable.  
  
 Section 4. REPRESENTATIONS AND WARRANTIES. Borrower represents and  
warrants to the Company as follows:  
  
 (a) Borrower is, and (as to any substitute or additional Collateral)  
shall be, the sole owner of the Collateral pledged by Borrower, free and clear  
of any lien, security interest, option or other charge or encumbrance, except  
for (i) the security interest created by this Agreement, (ii) certain  
restrictions under the Restricted Stock Agreement and (iii) restrictions imposed  
by applicable laws, and, subject to the same exceptions, Borrower has and shall  
have the right to transfer such Collateral and to grant a security interest  
therein to the Company as provided in this Agreement.  
  
 (b) No effective financing statement or similar notice covering any  
Collateral pledged by Borrower is or shall be on file in any recording office,  
and no other pledge or assignment thereof has been made, or shall have been  
made, other than in favor of the Company, except as the Company may approve.  
  
 Section 5. FURTHER ACTION BY BORROWER. Borrower shall, at the expense of  
Borrower, promptly execute and deliver all further notices, instruments and  
documents, including, without limitation, financing statements, and take all  
such further action as may be reasonably necessary or reasonably advisable or as  
the Company at any time may reasonably request, in order to  
  
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perfect, preserve and protect the security interest granted or purported to be  
granted hereby or to enable the Company to exercise and enforce such rights,  
powers and remedies with respect to the Collateral.  
  
 Section 6. PRESERVATION OF COLLATERAL.  
  
 (a) The Company shall give to the Collateral the same degree of care  
and protection which it gives to its own property; PROVIDED, HOWEVER, that the  
Company shall have no liability to Borrower for any losses, costs, expenses or  
damages due to any acts or omissions of third parties, or due to any acts of God  
or other causes beyond its control. The Company shall have no duty to preserve  
any rights with respect to any Collateral, including, without limitation, rights  
against prior parties, or to take, or to notify Borrower of the need to take,  
any action respecting any rights, privileges or options relating to any  
Collateral. To replace any certificates, however, Borrower shall not be required  
to supply any bond or other indemnity.  
  
 (b) Borrower shall furnish to the Company, promptly upon receipt  
thereof, copies of all material notices, requests and other documents received  
by Borrower relating to Collateral unless the same were sent by the Company.  
  
 (c) Borrower shall not (i) sell, assign, transfer or otherwise  
dispose of any Collateral, or create or suffer to exist any lien, security  
interest, assignment by operation of law or other charge or encumbrance on, or  
with respect to, any Collateral, except for the security interest created by  
this Agreement and the rights, remedies and restrictions imposed by the  
Restricted Stock Agreement; or (ii) attempt any action prohibited by paragraph  
(c)(i) of this Section 6. Notwithstanding the foregoing, Borrower may transfer  
Shares to Permitted Transferees pursuant to the Restricted Stock Agreement or  
following the vesting of such Shares provided such transfer is in accordance  
with the Restricted Stock Agreement; PROVIDED, HOWEVER, that the Shares so  
transferred shall remain subject to the security interest created by this  
Agreement and any such Permitted Transferee(s) shall, as a condition to any  
transfer, agree to be subject to the provisions of this Agreement.  
  
 Section 7. DEFAULTS. A default (an "Event of Default") shall be deemed to  
have occurred hereunder if (a) Borrower fails in any material respect to perform  
any material obligation hereunder, if any material representation or warranty  
hereunder was untrue in any material respect when made, or if any default or  
Event of Default by Borrower occurs under the Note or any agreement evidencing,  
or constituting or granting security for, the Obligations, and (b) the Company  
gives to Borrower written notice thereof and such default shall not have been  
cured within fourteen (14) days or such additional time as determined by the  
Board of Directors of the Company.  
  
 Section 8. REMEDIES. Upon and after the occurrence of any Event of  
Default which is then continuing or which has not been cured within the time  
period given for such cure:  
  
 (a) The Company may exercise its rights with respect to the  
Collateral, without regard to the existence of any other security or source of  
payment for Obligations, including without limitation the rights set forth in  
Section 2, and may demand, xxx for collection or make any other compromise or  
settlement with respect to other rights and remedies provided  
  
  
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for herein or otherwise available to it, and the Company shall have all of the  
rights and remedies of a secured party under the Uniform Commercial Code as in  
effect in the State of Delaware.  
  
 (b) Except as specifically reserved herein, Borrower waives all  
suretyship defenses at law and in equity, including waste and impairment of  
Collateral, and further waives the requirement of any demand and presentment.  
Twenty-one (21) days' prior notice to Borrower at the address provided below or  
at such other address as Borrower shall provide to the Company in writing for  
such purpose, of the time and place of any public sale of Collateral, or of the  
time after which any private sale or any other intended disposition is to be  
made, shall constitute reasonable notification.  
  
 (c) The Company is authorized at any such sale (including without  
limitation any sale to itself or any affiliate of the Company, the same being  
expressly authorized and contemplated herein), if the Company deems it advisable  
to do so, in order to comply with any applicable securities laws, to restrict  
the prospective bidders or purchasers to persons who will represent and agree  
that they are purchasing the Collateral for their own account for investment,  
and not with a view to the distribution or resale thereof. Sales made subject to  
such restriction shall not, solely by reason thereof, be deemed not to have been  
made in a commercially reasonable manner.  
  
 (d) The Company is specifically authorized, with respect to any  
Collateral that consists of Shares, to acquire such Collateral itself or to  
transfer such Collateral to any affiliate of the Company at a price equal to the  
Repurchase Price as that term is defined in the Restricted Stock Agreement.  
Borrower expressly waives any requirement that the Company conduct a public or  
private sale with respect to such Shares and agrees that such a disposition is  
commercially reasonable.  
  
 (e) In case of any sale of all or part of the Collateral on credit  
for future delivery, the Collateral so sold shall be retained by the Company  
until the purchase price is paid. The Company shall incur no liability in case  
of the failure of the purchaser to pay for the Collateral as so sold if the  
Collateral is recovered, or of the failure of the Company to make any sale of  
Collateral after giving notice thereof, and in case of any such failure, such  
Collateral may again be sold.  
  
 (f) Subject to the terms of the Note, all cash proceeds received by  
the Company in respect of any sale, collection or other enforcement or  
disposition of Collateral shall be applied (after deduction of any amounts  
payable to the Company for reasonable expenses of the sale, collection or  
disposition of Collateral) against Obligations in such order as the Company  
shall elect. Upon payment in full of all Obligations, Borrower shall be entitled  
to the return of all Collateral pledged by him and all proceeds thereof, which  
have not been used or applied toward the payment of Obligations as herein  
authorized.  
  
 Section 9. WAIVERS AND REMEDIES. Except as otherwise provided herein or  
by law, Borrower waives presentment, demand, notice and protest, notice of  
acceptance of this Agreement, and except as provided in Section 8(b) notice of  
all action by the Company in reliance hereon. No failure by the Company to  
exercise, no delay by the Company in exercising, and no single or partial  
exercise of, any right, remedy or power hereunder or under any other  
  
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agreement relating to the Obligations or to Collateral shall operate as a waiver  
thereof, or of any other right, remedy or power at any time. No amendment,  
modification or waiver of any provision of this Agreement shall be effective  
unless contained in a writing signed by the Company. Any such waiver or consent  
shall be effective only in the specific instance and for the specific purpose  
for which given. The rights, remedies and powers of the Company and Borrower,  
not only hereunder, but also under any promissory note or notes of Borrower held  
by the Company, any other agreements of Borrower with the Company and applicable  
law, are cumulative and may be exercised successively, concurrently or  
alternatively.  
  
 Section 10. TERM; BINDING EFFECT. This Agreement shall remain in full  
force and effect until payment and satisfaction in full of all Obligations,  
shall be binding upon Borrower and the heirs, legatees, legal representatives  
and assigns of Borrower, including Permitted Transferees, and shall inure to the  
benefit of the Company and its successors and assigns. Notwithstanding the  
foregoing, the Company may terminate this Agreement and release the Collateral,  
or may accept substitute Collateral, at any time in its sole discretion without  
in any way affecting the nonrecourse nature of a portion of the Obligations as  
provided in the Note.  
  
 Section 11. GOVERNING LAW. This Agreement shall be governed by and  
construed in accordance with the laws of the State of Delaware without regard to  
conflict of law principles, except to the extent that the perfection of the  
security interest granted hereby in respect of any item of Collateral may be  
governed by the law of another jurisdiction. Unless otherwise defined herein,  
all words and terms used in this Agreement shall have the meanings provided in  
the Uniform Commercial Code of the state of the jurisdiction of incorporation of  
the Company (including its successor as issuer of the Shares). If any provision  
of this Agreement, or the application thereof to any person or circumstance, is  
held invalid, such provision shall be deemed to be modified to comply with  
applicable law or if not able to be so modified, shall be deemed to be severed  
from the Agreement, the remaining provisions of which to be valid and  
enforceable.  
  
 Section 12. SIGNATURES. This Agreement may be executed in counterparts.  
  
 Section 13. HEADINGS. The captions in this Agreement have been included  
for reference only and shall not define or limit the provisions hereof.  
  
 [SIGNATURE PAGE FOLLOWS]  
  
  
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 EXECUTED as of the date set forth below.  
  
August 16, 2001 BORROWER:  
  
  
  
 /s/ XXX XXXXXXXXX  
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 Name: Xxx Xxxxxxxxx  
  
  
  
 COMPANY:  
  
 INVERNESS MEDICAL INNOVATIONS, INC.  
  
  
  
 By: /s/ XXXXX X. XXXXX  
 ------------------------------------  
 Name: Xxxxx X. Xxxxx  
 Title: Treasurer