

**CERTIFICATE OF AMENDMENT
TO
AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF
ACUFOCUS, INC.**

AcuFocus, Inc., a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "Corporation"), DOES HEREBY CERTIFY:

That the amendment to the Corporation's Amended and Restated Certificate of Incorporation set forth in the following resolution was approved by the Corporation's Board of Directors and stockholders and was fully adopted in accordance with the provisions of Sections 228 and 242 of the General Corporation Law of the State of Delaware:

RESOLVED, that Article FOURTH of the Amended and Restated Certificate of Incorporation of the Corporation be amended by adding the following paragraphs (d) and (e) at the end of Section B.6:

(d) Each share of Series A Preferred Stock, Series B Preferred Stock, Series B-1 Preferred Stock, Series C Preferred Stock, Series D Preferred Stock and Series E Preferred Stock (the "Affected Preferred Stock") held by a Non-Participating Holder shall, effective immediately prior to the Mandatory Closing Deadline of a Mandatory Financing, automatically be converted into one-tenth (1/10th) of a share of Common Stock. For the purposes of this provision, (i) a "Mandatory Financing" means a financing in which the Corporation seeks to raise at least \$4,000,000 from the holders of the Affected Preferred Stock through the issuance of unsecured convertible promissory notes during a period beginning on a date after May 1, 2011, specified by the Corporation and ending on a date before May 31, 2011, specified by the Corporation; (ii) the "Mandatory Closing Deadline" means the date and time specified by the Corporation with respect to a Mandatory Financing by which holders of shares of Affected Preferred Stock must invest their Pro Rata Amount in order not to be deemed Non-Participating Holders; (iii) the "Pro Rata Amount" of a holder of shares of Affected Preferred Stock means the product of the total amount the Corporation seeks to raise from holders of Affected Preferred Stock in the Mandatory Financing times a fraction the numerator of which is the number of shares of Affected Preferred Stock held by the holder and the denominator of which is the number of shares of Affected Preferred Stock then outstanding; and (iv) "Non-Participating Holder" means a holder of shares of Affected Preferred Stock that does not invest at least such holder's Pro Rata Amount in the Mandatory Financing on or before the Mandatory Closing Deadline. No fractional shares of Common Stock shall be issued upon conversion of Affected Preferred Stock under this provision. In lieu of any fractional shares to which a Non-Participating Holder would otherwise be entitled, the Corporation shall pay to such holder an amount equal to such fraction multiplied by the fair market value of the Common Stock as determined in good faith by the Corporation's Board of Directors. Following any automatic conversion pursuant to this paragraph (d), the holders of certificates representing shares of Affected Preferred Stock converted into Common Stock shall tender such certificates to the Corporation, and the Corporation

shall issue in exchange therefor certificates for the shares of Common Stock into which such shares have been converted. All certificates evidencing shares of Affected Preferred Stock which are required to be surrendered in accordance with the preceding sentence shall, from and after the Mandatory Closing Deadline, be deemed to have been retired and cancelled and the shares of Affected Preferred Stock represented thereby converted into Common Stock for all purposes, notwithstanding the failure of the holder or holders thereof to surrender such certificates.

(e) The right of holders of shares of Affected Preferred Stock to convert shares of Affected Preferred Stock into Common Stock pursuant to Section B.5, above, is suspended between the effective date of this paragraph (e) and the earlier of May 31, 2011 and the Mandatory Closing Deadline of a Mandatory Financing.

IN WITNESS WHEREOF, AcuFocus, Inc. has caused this certificate to be signed by its duly authorized President this 12th day of May, 2011.

ACUFOCUS, INC.

By: 

Edward Peterson
President