

**AMENDED AND RESTATED  
CERTIFICATE OF INCORPORATION**

**OF**

**ATRITECH, INC.**

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Atritech, Inc. (hereinafter referred to as the "**Corporation**"), a corporation organized and existing under the laws of the State of Delaware, hereby certifies as follows:

**FIRST.** The original Certificate of Incorporation of the Corporation was filed with the Secretary of State of the State of Delaware on March 3, 2006.

**SECOND.** This Amended and Restated Certificate of Incorporation amends, restates and integrates the provisions of the Certificate of Incorporation of the Corporation filed with the Secretary of State of the State of Delaware on March 3, 2006. This Amended and Restated Certificate of Incorporation has been duly approved and adopted in accordance with the provisions of Sections 141, 242 and 245 of the General Corporation Law of the State of Delaware (the "**Delaware General Corporation Law**") by the Board of Directors of the Corporation. The holders of at least a majority of the outstanding shares of capital stock of the Corporation approved this Amended and Restated Certificate of Incorporation by written consent in accordance with Section 228 of the Delaware General Corporation Law.

**THIRD.** The Amended and Restated Certificate of Incorporation of the Corporation is hereby amended and restated in its entirety to read in full as follows:

I

The name of the corporation is Atritech, Inc.

II.

The address of the registered office of the Corporation in the State of Delaware is Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, New Castle County, Delaware 19801. The name of its registered agent at such address is The Corporation Trust Company.

III.

The nature of the business or purposes to be conducted or promoted by the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware.

IV.

The authorized capital stock of the Corporation shall consist of (i) 50,000,000 shares of Common Stock, \$.01 par value (the "**Common Stock**") and (ii) 35,000,000 shares of Preferred Stock, \$.01 par value, 5,600,000 of which shares shall be designated as Series A Convertible Preferred Stock (the "**Series A Preferred Stock**"), 8,123,560 of which shares shall be designated as Series B Convertible Preferred Stock (the "**Series B Preferred Stock**") and 19,973,245 of which shares shall be designated as Series C Convertible Preferred Stock (the "**Series C Preferred Stock**") (the Series A Preferred Stock, the Series B Preferred Stock, and the Series C Preferred Stock are hereinafter sometimes collectively referred to as the "**Preferred Stock**").

1. Dividends and Distributions.

1.1 Common Stock Dividends. Subject to the provisions of law and this Amended and Restated Certificate of Incorporation, the holders of Common Stock shall be entitled to receive dividends out of funds legally available therefor, at such times and in such amounts as the Board of Directors of the Corporation in its sole discretion may determine and declare.

1.2 Series A and B Preferred Stock Dividends. The holders of shares of Series A Preferred Stock and Series B Preferred Stock (collectively, the "**Junior Preferred**") shall be entitled to receive, if, when and as declared by the Board of Directors of the Corporation or as otherwise provided by Sections 2 or 5, out of funds legally available therefor, non-cumulative dividends at the annual rate of (i) eight percent (8%) of the original purchase price of \$1.25 per share (subject to equitable adjustment for any stock dividend, subdivision, combination, reclassification or other event affecting the number of outstanding shares of Series A Preferred Stock) as to shares of Series A Preferred Stock, (ii) eight percent (8%) of the original purchase price of \$1.25 per share (subject to equitable adjustment for any stock dividend, subdivision, combination, reclassification or other event affecting the number of outstanding shares of Series B Preferred Stock) as to shares of Series B Preferred Stock. All dividends paid pursuant to this Section 1.2 on shares of Junior Preferred Stock shall rank senior to those dividends payable on shares Common Stock, and no dividends shall be payable on any shares of Common Stock unless an equivalent dividend shall first have been declared and paid on the outstanding shares of Junior Preferred (as if fully converted into Common Stock, including fractions of shares). All dividends paid pursuant to this Section 1.2 on shares of Series A Preferred Stock and Series B Preferred Stock shall rank pari passu in relation to each other and neither Series A Preferred Stock nor Series B Preferred Stock shall receive, either paid or declared, a dividend pursuant to this Section 1.2 exclusive of the other class.

1.3 Series C Preferred Stock Dividends. The holders of shares of Series C Preferred Stock shall be entitled to receive dividends if, when and as declared by the Board of Directors on such shares of Series C Preferred Stock. No dividends shall be declared or paid on any shares of Junior Preferred or Common Stock unless an equivalent dividend shall first have been declared and paid on the outstanding shares of Series C Preferred Stock (as if fully converted into Common Stock, including fractions of shares).

1.4 Record Date for Dividends. The Board of Directors of the Corporation may fix a record date for the determination of holders of shares of Common Stock and Preferred Stock entitled to receive payment of a dividend declared thereon, which record date shall be no more than 60 days and no less than 10 days prior to the date fixed for the payment thereof.

1.5 Payments of Dividends on Conversion. If the Corporation shall have declared but unpaid cash dividends with respect to any Preferred Stock upon its conversion as provided in Section 4 hereof, then all such declared but unpaid dividends shall be paid immediately prior to such conversion.

2. Liquidation, Dissolution or Winding-Up.

2.1 Liquidation Preference Payments.

(a) Series C Preferred Stock. Upon any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary (a "Liquidation Event"), the holders of the shares of Series C Preferred Stock shall be entitled, before any distribution or payment is made upon the Junior Preferred or the Common Stock, to be paid an amount equal to \$1.25 per share (appropriately adjusted to reflect the occurrence of any event described in Section 4.2 (g) or (h)) plus, in the case of each share, an amount equal to any dividends declared but unpaid thereon, such amount payable with respect to one share of Series C Preferred Stock being sometimes referred to as the "**Series C Liquidation Preference Payment**" and with respect to all shares of Series C Preferred Stock being sometimes referred to as the "**Series C Liquidation Preference Payments**." If upon such Liquidation Event, the assets to be distributed among the holders of the Series C Preferred Stock shall be insufficient to permit payment to the holders of the Series C Preferred Stock of the Series C Liquidation Preference Payments, then the entire assets of the Corporation legally available for distribution shall be distributed ratably among the holders of the Series C Preferred Stock in proportion to the preferential amount each such holder is otherwise entitled to.

(b) Junior Preferred Stock. Upon a Liquidation Event, immediately after the holders of the Series C Preferred Stock have been paid in full the Series C Liquidation Preference Payments, the holders of the shares of the Junior Preferred shall be entitled, before any distribution or payment is made upon the Common Stock, to be paid an amount equal to \$1.25 per share in the case of the Series A Preferred Stock and \$1.25 per share in the case of the Series B Preferred Stock (in each case appropriately adjusted to reflect the occurrence of any event described in Section 4.2 (g) or (h)) plus, in the case of each share, an amount equal to any dividends declared but unpaid thereon, such amount payable with respect to one share of Junior Preferred being sometimes referred to as the "**Junior Preferred Preference Payment**" and with respect to all shares of the Junior Preferred being sometimes referred to as the "**Junior Preferred Preference Payments**". The Junior Preferred Preference Payments and the Series C Liquidation Preference Payments are sometimes referred to herein collectively as the "**Liquidation Preference Payments**". If upon such Liquidation Event, after the holders of the Series C Preferred Stock have been paid in full the Series C Liquidation Preference Payments, the remaining assets to be distributed among the holders of the Junior Preferred shall be insufficient to permit payment to the holders of the Junior Preferred of the Junior Preferred Preference Payments, then the remaining assets of the Corporation legally available for

distribution shall be distributed ratably among the holders of the Junior Preferred in proportion to the preferential amount each such holder is otherwise entitled to receive under this Section 2.1(b).

2.2 Remaining Liquidating Distribution. Subject to and after payment has been made in full pursuant to Section 2.1 above, or the Corporation shall have set aside funds sufficient for such payments in trust for the account of such holders so as to be available for such payment, all remaining assets available for distribution shall be distributed ratably to the holders of Series C Preferred Stock and Common Stock (with each share of Series C Preferred Stock being deemed, for such purpose, to be equal to the number of shares of Common Stock (including fractions of a share) into which such share of Series C Preferred Stock is convertible immediately prior to the close of business on the business day fixed for such distribution).

2.3 Treatment of Mergers, Consolidations, and Sales of Stock or Assets. The merger or consolidation of the Corporation, or the issuance, sale or recapitalization of its capital stock (other than a merger, consolidation, sale, issuance or recapitalization in which the holders of the capital stock of the Corporation immediately prior thereto continue to hold immediately thereafter a majority of the voting power of the capital stock of the Corporation or other surviving corporation), or the sale or other conveyance of all or substantially all the assets of the Corporation (collectively, a "Disposition") shall be deemed to be a liquidation, dissolution, or winding up of the Corporation for purposes of this Section 2, unless the holders of at least two-thirds of the voting power of the then outstanding shares of Preferred Stock, voting as a single class on an as-converted basis, immediately prior to such event elect that such Disposition not be so treated. In the absence of such election, the holders of Preferred Stock shall be entitled to receive the amounts payable to such holders pursuant to Section 2.1.

2.4 Distributions Other Than Cash. The amount distributable to the holders of Preferred Stock upon a Liquidation Event or Disposition shall be in cash or, to the extent cash is insufficient, in property, rights or securities. The value of such property, rights or other securities shall be determined in good faith by the Board of Directors of the Corporation. To the extent consideration distributed hereunder shall be in different forms, each holder of Preferred Stock shall be entitled to its pro rata share of each form of consideration, unless otherwise agreed by the holders of at least two-thirds of the voting power of the then outstanding shares of Preferred Stock, voting as a single class on an as-converted basis.

3. Voting Rights. Except as otherwise required by law or as provided in this Amended and Restated Certificate of Incorporation, the holders of the Preferred Stock and the Common Stock shall have the following respective voting rights:

3.1 Preferred Stock. Each holder of shares of Preferred Stock shall be entitled to notice of any stockholders' meeting and to vote on any matters on which the Common Stock may be voted. Each share of Preferred Stock shall be entitled to that number of votes equal to the number of whole shares of Common Stock into which such share of Preferred Stock is convertible, pursuant to Section 4, at the record date for such vote or, in the case of a written consent, on the date of signing thereof. The holders of the Preferred Stock shall vote as a separate class with respect to any matter or proposed action as to which applicable law or this Amended and Restated Certificate of Incorporation require the separate vote, consent or approval

of the holders of the Series A Preferred Stock, the Series B Preferred Stock or the Series C Preferred Stock as applicable.

3.2 Common Stock. The holders of Common Stock shall be entitled to one vote per share for the election of directors and on all other matters for which a vote of common stockholders is required. Except as otherwise provided herein and subject to provisions of law, holders of Common Stock and holders of Preferred Stock shall vote together as one class. Notwithstanding the provisions of Section 242(b)(2) of the General Corporation Law of the State of Delaware, the holders of shares of Common Stock shall vote together with the holders of shares of Preferred Stock as a single class with respect to any proposed amendment hereto that would increase or decrease the number of shares of authorized Common Stock with each such share being entitled to such number of votes per share as is provided in this Section 3, and the holders of shares of Common Stock shall not be entitled to a separate class vote with respect thereto.

3.3 Election of Board of Directors. The holders of the Preferred Stock and the holders of the Common Stock shall be entitled to vote upon the election of directors on the following basis:

(a) one member of the Board of Directors shall be elected by the holders of a majority of the outstanding shares of Common Stock, voting as a separate class;

(b) one member of the Board of Directors shall be elected by the holders of a majority of the outstanding shares of Series A Preferred Stock, voting as a separate class;

(c) one member of the Board of Directors shall be elected by the holders of at least two-thirds of the outstanding shares of Series B Preferred Stock, voting as a separate class;

(d) two members of the Board of Directors shall be elected by the holders of a majority of the outstanding shares of Series C Preferred Stock, voting as a separate class; and

(e) two members of the Board of Directors shall be elected by the holders of at least two-thirds of the outstanding shares of Common Stock and Preferred Stock, voting as a single class on an as-converted basis.

4. Conversion Rights. The holders of the Preferred Stock shall have the following rights with respect to the conversion of shares of Preferred Stock into shares of Common Stock:

4.1

(a) Series A Preferred Stock. Each outstanding share of Series A Preferred Stock shall be convertible, at the option of the holder thereof, at any time after issuance and without the payment of any additional consideration therefor, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing the Series A Original Purchase Price by the Series A Conversion Price in effect at the time of conversion. The

"Series A Original Purchase Price" shall be \$1.25 for each share of Series A Preferred Stock (subject to equitable adjustment for any stock dividend, subdivision, combination, reclassification or other event affecting the number of outstanding shares of Series A Preferred Stock). The "Series A Conversion Price" shall initially be the Series A Original Purchase Price subject to adjustment in order to adjust the number of shares of Common Stock into which the Series A Preferred Stock is convertible as hereinafter provided.

(b) Series B Preferred Stock. Each outstanding share of Series B Preferred Stock shall be convertible, at the option of the holder, thereof, at any time after issuance and without the payment of any additional consideration therefor, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing the Series B Original Purchase Price by the Series B Conversion Price in effect at the time of conversion. The "Series B Original Purchase Price" shall be \$1.25 for each share of Series B Preferred Stock (subject to equitable adjustment for any stock dividend, subdivision, combination, reclassification or other event affecting the number of outstanding shares of Series B Preferred Stock). The "Series B Conversion Price" shall initially be the Series B Original Purchase Price subject to adjustment in order to adjust the number of shares of Common Stock into which the Series B Preferred Stock is convertible as hereinafter provided.

(c) Series C Preferred Stock. Each outstanding share of Series C Preferred Stock shall be convertible, at the option of the holder thereof, at any time after issuance and without payment of any additional consideration therefor, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing the Series C Original Purchase Price by the Series C Conversion Price. The "Series C Original Purchase Price" shall be \$1.25 for each share of Series C Preferred Stock (subject to equitable adjustment for any stock dividend, subdivision, combination, reclassification or other event affecting the number of outstanding shares of Series C Preferred Stock). The "Series C Conversion Price" shall initially be the Series C Original Purchase Price subject to adjustment in order to adjust the number of shares of Common Stock into which the Series C Preferred Stock is convertible as hereinafter provided.

#### 4.2 Adjustments to Conversion Price.

(a) Definitions. For the purposes of this Section 4.2, the following definitions shall apply:

(1) "Option" means any outstanding right, option or warrant to subscribe for, purchase or otherwise acquire Common Stock or Convertible Securities.

(2) "Original Issue Date" means the date on which shares of Series C Preferred Stock were first issued.

(3) "Convertible Securities" means any evidences of indebtedness, shares (other than Common Stock or Preferred Stock) or other securities directly or indirectly convertible into or exchangeable for Common Stock.

(4) **"Additional Shares of Common Stock"** means all shares of Common Stock issued (or, pursuant to Section 4.2(c), deemed to be issued) by the Corporation after the Original Issue Date, other than shares of Common Stock issued or issuable:

(i) upon conversion of shares of Preferred Stock or as a dividend or distribution on the Preferred Stock;

(ii) to employees, officers, directors or consultants of the Corporation under any stock option plan or restricted stock agreement approved by the Board of Directors, but not more than 4,479,951 of such shares (subject to equitable adjustment for any stock dividend, subdivision, combination, reclassification or other event affecting the number of outstanding shares of Common Stock) (the **"Reserved Employee Shares"**) except with the vote or written consent of a majority of the members of the Board of Directors of the Corporation;

(iii) in connection with any merger, acquisition or other reorganization approved by a majority of the members of the Board of Directors;

(iv) in connection with strategic corporate partnering arrangements or pursuant to business conducted by the Corporation with customers or suppliers, in each case, as approved by a majority of the members of the Board of Directors; and

(v) to lessors or financial institutions in connection with financing transactions approved by a majority of the members of the Board of Directors.

(5) **"Common Stock Deemed Outstanding"** means, at any given time, the number of shares of Common Stock actually outstanding at such time, plus the number of shares of Common Stock issuable at such time upon conversion of any series of Preferred Stock, and any other Convertible Securities then outstanding, plus the number of shares of Common Stock issuable at any time upon the exercise of all then outstanding Options.

(6) **"Conversion Prices"** means, collectively, the Series A Conversion Price, Series B Conversion Price and Series C Conversion Price.

(b) No Adjustment of Conversion Price. No adjustment shall be made in the Conversion Price for any series of Preferred Stock as the result of the issuance of Additional Shares of Common Stock or otherwise unless the consideration per share determined pursuant to Section 4.2(f) for an Additional Share of Common Stock issued or deemed to be issued by the Corporation is less than the Series A Conversion Price, Series B Conversion Price or Series C Conversion Price for such series of Preferred Stock in effect on the date of and immediately prior to the issuance of such Additional Shares of Common Stock.

(c) Issue of Options and Convertible Securities Deemed Issue of Additional Shares of Common Stock. If the Corporation at any time or from time to time after the Original Issue Date shall issue any Options or Convertible Securities, or shall fix a record date for the determination of holders of any class of securities entitled to receive any such Options or Convertible Securities, then the maximum number of shares of Common Stock (as set forth in the instrument relating thereto without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or, in the case

of Convertible Securities and Options therefor, the conversion or exchange of such Convertible Securities, shall be deemed to be Additional Shares of Common Stock issued as of the time of such issue or, in case such a record date shall have been fixed, as of the close of business on such record date; provided, that in any such case in which Additional Shares of Common Stock are deemed to be issued:

(1) further adjustment in the Conversion Price for any series of Preferred Stock shall be made upon the subsequent issue of Convertible Securities or shares of Common Stock upon the exercise of such Options or conversion or exchange of such Convertible Securities;

(2) the expiration or termination of any such Options or any rights of conversion or exchange under such Convertible Securities which shall not have been exercised, the Conversion Price for each series of Preferred Stock computed upon the original issue thereof (or upon the occurrence of a record date with respect thereto) and any subsequent adjustments based thereon shall, upon such expiration, be recomputed as if:

(i) in the case of Convertible Securities or Options for Common Stock, the only Additional Shares of Common Stock issued were the shares of Common Stock, if any, actually issued upon the exercise of such Options or the conversion or exchange of such Convertible Securities, and the consideration received therefor was the consideration actually received by the Corporation for the issue of all such Options, whether or not exercised, plus the consideration actually received by the Corporation upon such exercise, or for the issue of all such Convertible Securities which were actually converted or exchanged, plus the additional consideration, if any, actually received by the Corporation upon such conversion or exchange; and

(ii) in the case of Options for Convertible Securities, only the Convertible Securities, if any, actually issued upon the exercise thereof were issued at the time of issue of such Options, and the consideration received by the Corporation for the Additional Shares of Common Stock deemed to have been then issued was the consideration actually received by the Corporation for the issue of all such Options, whether or not exercised, plus the consideration deemed to have been received by the Corporation determined pursuant to Section 4.2(f)(2) (or upon the issue of the Convertible Securities with respect to which such Options were actually exercised);

(3) no recomputation pursuant to the preceding clause (2) shall have the effect of increasing the Series A Conversion Price, Series B Conversion Price or Series C Conversion Price to an amount that exceeds the lower of (i) the applicable Conversion Price on the original adjustment date, or (ii) the Conversion Price that would have resulted from any issuance of Additional Shares of Common Stock between the original adjustment date and such recomputation date; and

(4) if such record date shall have been fixed and such Options or Convertible Securities are not issued on the date fixed therefor, the adjustment previously made in the Series A Conversion Price, Series B Conversion Price or Series C Conversion Price which became effective on such record date shall be canceled as of the close of business on such



record date, and thereafter the appropriate Conversion Price shall be adjusted pursuant to this Section 4.2(c) as of the actual date of their issuance.

(d) Stock Dividends, Distributions and Subdivisions; Deemed Issuance of Additional Shares of Common Stock. In the event the Corporation at any time or from time to time after the Original Issue Date shall declare or pay any dividend or make any other distribution on the Common Stock payable in Common Stock, or effect a subdivision of the outstanding shares of Common Stock (by reclassification or other than by payment of a dividend in Common Stock), then and in any such event, Additional Shares of Common Stock shall be deemed to have been issued:

(1) the case of any such dividend or distribution, immediately after the close of business on the record date for the determination of holders of any class or series of securities entitled to receive such dividend or distribution, or

(2) in the case of any such subdivision, at the close of business on the date immediately prior to the date upon which such subdivision becomes effective.

If such record date shall have been fixed and such dividend shall not have been fully paid on the date fixed therefor, the adjustment previously made in the Series A Conversion Price, Series B Conversion Price or Series C Conversion Price which became effective on such record date shall be canceled as of the close of business on such record date, and thereafter the Series A Conversion Price, Series B Conversion Price or Series C Conversion Price, as the case may be, shall be adjusted pursuant to this Section 4.2(d) as of the time of actual payment of such dividend.

(e) Adjustment of Conversion Price Upon Certain Events. If the Corporation shall issue Additional Shares of Common Stock, including Additional Shares of Common Stock deemed to be issued pursuant to Section 4.2(c) hereof but excluding Additional Shares of Common Stock issued pursuant to Section 4.2(d), which is addressed in Section 4.2(g), without consideration or for a consideration per share less than either the Series A Conversion Price, Series B Conversion Price or Series C Conversion Price in effect on the date of and immediately prior to such issue, then and in such event, such Conversion Price shall be reduced concurrently with such issue in order to increase the number of shares of Common Stock into which shares of the applicable series of Preferred Stock are convertible, to a price (calculated to the nearest cent) determined by multiplying such Conversion Price by a fraction (x) the numerator of which shall be (A) the number of shares of Common Stock Deemed Outstanding immediately prior to such issue, plus (B) the number of shares of Common Stock which the aggregate consideration received by the Corporation for the total number of Additional Shares of Common Stock so issued would purchase at such Conversion Price, and (y) the denominator of which shall be (A) the number of shares of Common Stock Deemed Outstanding immediately prior to such issue, plus (B) the number of such Additional Shares of Common Stock so issued. Notwithstanding the foregoing, the applicable Conversion Price shall not be so reduced at such time if the amount of such reduction would be an amount less than \$0.001, but any such amount shall be carried forward and a reduction with respect thereto shall be made at the time of and together with any subsequent reduction which, together with such amount and any amounts so carried forward, shall aggregate \$0.001 or more.

(f) Determination of Consideration. For purposes of this Section 4.2, the consideration received by the Corporation for the issue of any Additional Shares of Common Stock shall be computed as follows:

(1) Cash and Property. Such consideration shall:

(i) insofar as it consists of cash, be computed at the aggregate of cash received by the Corporation, excluding amounts paid or payable for accrued interest or accrued dividends;

(ii) insofar as it consists of property other than cash, be computed at the fair market value thereof at the time of such issue, as reasonably determined in good faith by the Board of Directors of the Corporation; and

(iii) in the event Additional Shares of Common Stock are issued together with other shares or securities or other assets of the Corporation for consideration which covers both, be the proportion of such consideration so received, computed as provided in clauses (i) and (ii) above, as reasonably determined in good faith by the Board of Directors of the Corporation.

(2) Options and Convertible Securities. The consideration per share received by the Corporation for Additional Shares of Common Stock deemed to have been issued pursuant to Section 4.2(c) relating to Options and Convertible Securities shall be determined by dividing:

(i) the total amount, if any, received or receivable by the Corporation as consideration for the issue of such Options or Convertible Securities, plus the minimum aggregate amount of additional consideration (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such consideration until such subsequent adjustment occurs) payable to the Corporation upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities, by

(ii) the maximum number of shares of Common Stock (as set forth in instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such number until such subsequent adjustment occurs) issuable upon the exercise of such Options or the conversion or exchange of such Convertible Securities.

(g) Adjustment for Stock Splits, Stock Dividends, Subdivisions, Combinations or Consolidation of Common Stock. In the event the outstanding shares of Common Stock shall be split, subdivided, combined or consolidated, by reclassification or otherwise, into a greater or lesser number of shares of Common Stock, and/or in the event that the Corporation shall issue shares of Common Stock by way of a stock dividend or other distribution to the holders of Common Stock, the Conversion Price for each series of Preferred Stock in effect immediately prior to such split, subdivision, stock dividend, combination or consolidation shall, concurrently with the effectiveness of such split, subdivision, stock dividend, combination or consolidation, be increased or decreased proportionately.

(h) Adjustments for Other Dividends and Distributions. In the event the Corporation at any time or from time to time after the Original Issue Date shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive a dividend or other distribution (other than a distribution in liquidation or other distribution otherwise provided for herein) with respect to the Common Stock payable in securities of the Corporation other than shares of Common Stock, then and in each such event provision shall be made so that the holders of Preferred Stock shall receive upon conversion thereof in addition to the number of shares of Common Stock receivable thereupon, the amount of securities of the Corporation that they would have received had their Preferred Stock been converted into Common Stock on the date of such event and had they thereafter, during the period from the date of such event to and including the Conversion Date, as defined in Section 4.4(a), retained such securities receivable by them as aforesaid during such period, giving application to all adjustments called for during such period under this Section 4 with respect to the rights of the holders of Preferred Stock.

(i) Adjustment for Reclassification, Exchange or Substitution. If the Common Stock issuable upon the conversion of Preferred Stock shall be changed into the same or a different number of shares of any class or classes of stock, whether by capital reorganization, reclassification, or otherwise (other than a subdivision or combination of shares or stock dividend provided for above, or a reorganization, merger, consolidation, or sale of assets provided for below), then and in each such event the holder of each such share of Preferred Stock shall have the right thereafter to convert such share into the kind and amount of shares of stock and other securities and property receivable upon such reorganization, reclassification, or other change, by holders of the number of shares of Common Stock into which such shares of Preferred Stock might have been converted immediately prior to such reorganization, reclassification, or change, all subject to further adjustment as provided herein.

4.3 Fractional Shares. No fractional shares of Common Stock shall be issued upon conversion of Preferred Stock. In lieu of any fractional shares to which the holder would otherwise be entitled, the Corporation shall pay cash equal to the product of such fraction multiplied by the then effective Conversion Price for the applicable series of Preferred Stock.

#### 4.4 Mechanics of Conversion.

(a) In order for a holder of any series of Preferred Stock to convert shares of Preferred Stock into shares of Common Stock, such holder shall give written notice to the Corporation that such holder elects to convert shares of Preferred Stock and shall surrender the certificate or certificates for such shares of Preferred Stock, at the office of the transfer agent for the Preferred Stock (or at the principal office of the Corporation if the Corporation serves as its own transfer agent), together with written notice that such holder elects to convert all or any number of the shares of the Preferred Stock represented by such certificate or certificates. Such notice shall state such holder's name or the names of the nominees in which such holder wishes the certificate or certificates for shares of Common Stock to be issued and the number of shares of Preferred Stock to be converted. If required by the Corporation, certificates surrendered for conversion shall be endorsed or accompanied by a written instrument or instruments of transfer, in form reasonably satisfactory to the Corporation, duly executed by the registered holder or his or its attorney duly authorized in writing. The date of receipt of such certificates and notice by

the transfer agent (or by the Corporation if the Corporation serves as its own transfer agent) shall be the conversion date (the "**Conversion Date**") and the conversion shall be deemed effective as of the close of business on the Conversion Date in accordance with paragraph (d) below. The Corporation shall, as soon as practicable after the Conversion Date, issue and deliver to such holder of Preferred Stock, or to his or its nominees, a certificate or certificates for the number of shares of Common Stock to which such holder shall be entitled, together with cash in lieu of any fraction of a share in an amount equal to the same fraction of the market price per share of the Common Stock (as determined in a reasonable manner prescribed by the Board of Directors of the Corporation) at the close of business on the Conversion Date. The determination as to whether or not any fractional shares are issuable shall be based upon the aggregate number of shares of Preferred Stock being converted at any one time by a holder thereof, not upon each share of Preferred Stock being converted.

(b) The Corporation shall at all times when any series of Preferred Stock is outstanding, reserve and keep available out of its authorized but unissued stock, for the purpose of effecting the conversion of the Preferred Stock, such number of its duly authorized shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of Preferred Stock. Before taking any action that would cause an adjustment reducing the Conversion Price below the then-existing par value of the shares of Common Stock issuable upon conversion of Preferred Stock, the Corporation shall take any corporate action that may, in the opinion of its counsel, be necessary in order that the Corporation may validly and legally issue fully paid and nonassessable shares of Common Stock at such adjusted Conversion Price.

(c) Upon any such conversion, no adjustment to the Conversion Price for any series of Preferred Stock shall be made for any declared and unpaid dividends on such series of Preferred Stock surrendered for conversion or on the Common Stock delivered upon conversion.

(d) All shares of Preferred Stock surrendered for conversion as herein provided shall no longer be deemed to be outstanding and all rights with respect to such shares, including the rights, if any, to receive notices, to vote and to dividends shall immediately cease and terminate at the close of business on the Conversion Date (except only the right of the holders thereof to receive shares of Common Stock in exchange therefor and to receive unpaid dividends declared prior to conversion). Any shares of Preferred Stock so converted shall be retired and canceled and shall not be reissued, and the Corporation from time to time shall take appropriate action to reduce the authorized Preferred Stock accordingly.

4.5 Certificates as to Adjustments. Upon the occurrence of each adjustment or readjustment of the Conversion Price for any series of Preferred Stock pursuant to this Section 4, the Corporation at its expense shall promptly compute such adjustment or readjustment in accordance with the terms hereof and furnish to each holder of each series of Preferred Stock affected by such adjustment or readjustment a certificate setting forth such adjustment or readjustment and showing in reasonable detail the facts upon which such adjustment or readjustment is based. The Corporation shall upon the reasonable written request of any holder of any series of Preferred Stock, furnish or cause to be furnished to such holder as soon as practicable a similar certificate setting forth (i) such adjustments and readjustments, (ii) the

Conversion Price then in effect for such series of Preferred Stock, and (iii) the number of shares of Common Stock and the amount if any, of other property that would then be received upon the conversion of Preferred Stock.

4.6 Merger or Sale of Assets. If at any time or from time to time there shall be a Disposition, as defined in Section 2.3, then, as a part thereof, provision shall be made so that the holders of the Preferred Stock shall thereafter be entitled to receive upon conversion of the Preferred Stock the number of shares of stock or other securities or property of the Corporation, or of the successor corporation resulting from such Disposition, to which a holder of Common Stock issuable upon conversion would have been entitled on such Disposition. In any such case, appropriate adjustment (as reasonably determined in good faith by the Board of Directors of the Corporation) shall be made in the application of the provisions of this Section 4.6 with respect to the rights and interest thereafter of the holders of the Preferred Stock after the Disposition to ensure that the provisions of this Section 4.6 (including adjustment of the Conversion Price then in effect and the number of shares acquirable upon conversion of each series of Preferred Stock) shall be applicable after the Disposition in as nearly equivalent a manner as may be practicable. Each holder of Preferred Stock, upon the occurrence of a Disposition, shall have the option of electing treatment under either this Section 4.6 or (unless the holders of at least two-thirds of the voting power of the then outstanding shares of Preferred Stock, voting as a single class on an as-converted basis, elect that the Disposition not be treated as a liquidation pursuant to Section 2.3) Section 2.3, notice of which election shall be submitted in writing to the Corporation at its principal offices no later than ten days after the effective date of such Disposition.

4.7 Notice of Record Date. In the event that any of the following occurs:

(a) the Corporation declares a dividend upon its Common Stock or makes any other distribution on its Common Stock payable in Common Stock or other securities of the Corporation;

(b) the Corporation subdivides or combines its outstanding shares of Common Stock;

(c) there occurs any reclassification of the Common Stock of the Corporation (other than a subdivision or combination of its outstanding shares of Common Stock or a stock dividend or stock distribution thereon), or any consolidation or merger of the Corporation into or with another corporation, or of the sale of all or substantially all of the assets of the Corporation; or

(d) the involuntary or voluntary liquidation, dissolution, or winding-up of the Corporation;

then the Corporation shall cause to be filed at its principal office or at the office of the transfer agent for the Preferred Stock and shall cause to be furnished to the holders of the Preferred Stock by mail, postage prepaid, or telecopier at their addresses as shown on the records of the Corporation or such transfer agent, at least ten days prior to the record date specified in (1) below or twenty days before the date specified in (2) below, a notice stating the following information:

(1) the record date of such dividend, distribution, subdivision or combination, or, if a record is not to be taken, the date as of which the holders of Common Stock of record to be entitled to such dividend, distribution, subdivision, or combination are to be determined, or

(2) the date on which such reclassification, consolidation, merger, sale, liquidation, dissolution or winding-up is expected to become effective, and the date, as of which it is expected that holders of Common Stock of record shall be entitled to exchange their shares of Common Stock for securities or other property deliverable upon such reclassification, consolidation, merger, sale, liquidation, dissolution or winding-up.

#### 4.8 Mandatory Conversion of Preferred Stock.

(a) Mandatory Conversion. All outstanding shares of Preferred Stock shall be automatically converted into shares of Common Stock at the then effective Conversion Price upon the closing of an underwritten, firm commitment public offering pursuant to an effective registration statement under the Securities Act of 1933, in which the assumed valuation of the Corporation immediately prior to the offering, as reflected in the proposed per share price to the public for the Common Stock, is not less than \$100 million and the aggregate net proceeds to the Corporation (after deduction of underwriting discounts and commissions) are not less than twenty-five million dollars (\$25,000,000) (a "Qualified Public Offering").

(b) Elective Series C Conversion. Upon the written consent of holders of Series C Preferred Stock representing at least two-thirds of the voting power of the then outstanding shares of Series C Preferred Stock, all outstanding shares of Series C Preferred Stock shall be automatically converted into shares of Common Stock at the then effective Series C Conversion Price.

(c) Elective Junior Preferred Conversion. Upon the written consent of holders of Junior Preferred representing at least two-thirds of the voting power of the then outstanding shares of Junior Preferred, voting together as a single class, all outstanding shares of Junior Preferred shall be automatically converted into shares of Common Stock at the then effective applicable Conversion Price.

(d) Conversion Mechanics. On or after the date of occurrence of a conversion of Preferred Stock pursuant to paragraphs (a), (b) or (c) of this Section 4.8 (a "Conversion Event"), and in any event within ten days after receipt of notice, by mail, postage prepaid, or telecopier from the Corporation of the occurrence of such event, each holder of record of shares of any series of Preferred Stock being converted shall surrender such holder's certificates evidencing such shares at the principal office of the Corporation or at such other place as the Corporation shall designate, and shall thereupon be entitled to receive certificates

evidencing the number of shares of Common Stock into which such shares of Preferred Stock are converted and cash as provided in Section 4.3 in respect of any fraction of a share of Common Stock otherwise issuable upon such conversion. On the date of the occurrence of a Conversion Event, each holder of record of shares of any series of Preferred Stock being converted shall be deemed to be the holder of record of the Common Stock issuable upon such conversion, notwithstanding that the certificates representing such shares of any series of Preferred Stock shall not have been surrendered at the office of the Corporation, that notice from the Corporation shall not have been received by any holder of record of shares of any series of Preferred Stock being converted, or that the certificates evidencing such shares of Common Stock shall not then be actually delivered to such holder.

(e) Shares Deemed Retired and Cancelled. All certificates evidencing shares of any series of Preferred Stock that are required to be surrendered for conversion in accordance with the provisions hereof, from and after the date such certificates are so required to be surrendered, shall be deemed to have been retired and canceled and the shares of any series of Preferred Stock represented thereby converted into Common Stock for all purposes, notwithstanding the failure of the holder or holders thereof to surrender such certificates on or prior to such date. The Corporation from time to time thereafter shall take appropriate action to reduce the authorized Preferred Stock accordingly.

4.9 No Impairment. The Corporation will not, by amendment of this Amended and Restated Certificate of Incorporation or through any reorganization, 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 Corporation but will at all times in good faith assist in the carrying out of all the provisions of this Section 4 and in the taking of all such action as may be necessary or appropriate in order to protect the conversion rights of the holders of the Preferred Stock against impairment.

## 5. Redemption.

5.1 Preferred Stock. At any time following the fifth anniversary of the Original Issue Date, within twenty days after receipt of the written request of the holders of two-thirds of the voting power of the then outstanding shares of Preferred Stock, voting as a single class on an as-converted basis (the "Initial Redemption Date"), the Corporation shall redeem in three equal annual installments all of the shares of Preferred Stock outstanding at the Initial Redemption Date on a pari passu basis. The redemption price for each share of Preferred Stock redeemed pursuant to this Section 5 shall be the applicable Original Purchase Price (as adjusted for any stock dividend, subdivision, combination, reclassification or other event affecting the number of outstanding shares of the applicable series of Preferred Stock) plus all declared but unpaid dividends through the date of redemption (in each case, the "Redemption Price"). Such shares shall be redeemed on the Initial Redemption Date and on the first and second anniversaries of the Initial Redemption Date (each, a "Redemption Date").

5.2 Surrender of Certificates; Payment. Each holder of shares of Preferred Stock to be redeemed shall surrender certificate(s) representing such shares to the Corporation at the principal office of the Corporation, and thereupon the Redemption Price shall be paid to the

order of the person whose name appears on such certificate(s) and each surrendered certificate shall be canceled and retired.

5.3 Dividends and Conversion after Redemption. From and after the applicable time for redemption of any shares of Preferred Stock, such shares shall not be entitled to any further dividends pursuant to Section 1 hereof or to the conversion rights set forth in Section 4 hereof, provided the Corporation has paid the applicable Redemption Price in full to the holders of such shares.

5.4 Insufficient Funds for Redemption. If the funds of the Corporation legally available for redemption of any Preferred Stock at the applicable time for redemption are insufficient to redeem the number of shares of Preferred Stock to be so redeemed, the holders of shares of the Preferred Stock to be redeemed shall share ratably in any funds legally available for redemption of such shares in proportion to the respective amounts which would be payable with respect to the number of shares owned by them if the shares to be so redeemed were redeemed in full. The shares of Preferred Stock not redeemed shall remain outstanding and entitled to all rights and preferences provided herein notwithstanding Section 5.3. At any time thereafter when additional funds of the Corporation are legally available for the redemption of such shares such funds will be used, at the end of the next succeeding fiscal quarter, to redeem the balance of such shares, or such portion thereof for which funds are then legally available, on the basis set forth above.

5.5 Interest on Defaulted Amounts. In the event of a default by the Corporation in the payment of the applicable Redemption Price as of any Redemption Date, such Redemption Price shall accrue interest at the rate of fifteen percent (15%) per annum, payable quarterly in arrears.

6. Reacquired Shares. Any shares of Preferred Stock redeemed, purchased, or otherwise acquired by the Corporation in any manner whatsoever shall be retired and canceled promptly after the acquisition thereof, and shall not be reissued and the Corporation from time to time shall take such action as may be necessary to reduce the authorized Preferred Stock accordingly.

7. Restrictions and Limitations.

7.1 Vote Required by Preferred Stock. Except as otherwise expressly provided herein, the Corporation shall not do any of the following without the approval by vote or written consent of the holders of two-thirds of the voting power of the then outstanding shares of Preferred Stock, voting as a single class on an as-converted basis:

(a) Amend or repeal the Corporation's Amended and Restated Certificate of Incorporation or the Bylaws, including by way of merger, consolidation or otherwise.

(b) Increase or decrease the authorized number of shares of Preferred Stock.



(c) Authorize, issue or otherwise create (by reclassification or otherwise) any new class of additional shares of capital stock of the Corporation having priority over the existing Preferred Stock or ranking in parity with any existing series of Preferred Stock as to payment of dividends, whether in cash or in kind, or the payment or distribution of assets upon the liquidation or dissolution, voluntary or involuntary, of the Corporation.

(d) Authorize any material asset transfer, acquisition or merger, exchange, consolidation (including such action involving a subsidiary of the Corporation) or voluntary dissolution or liquidation of the Corporation, or any Disposition.

(e) Pay a dividend on or repurchase any shares of Common Stock, other than repurchase of Common Stock pursuant to employee stock purchase or restriction agreements previously approved by the Board of Directors.

(f) Increase or decrease the size of the Corporation's Board of Directors.

(g) Repurchase any shares of Preferred Stock, other than a repurchase pursuant to Section 5 hereof.

7.2 Vote Required by Series A Preferred Stock. Except as otherwise expressly provided herein, without the approval by vote or written consent of the holders of two-thirds of the voting power of the then outstanding shares of Series A Preferred Stock, voting as a separate class, the Corporation shall not take any action that constitutes or results in an amendment or waiver of any provision of the Corporation's Amended and Restated Certificate of Incorporation or Bylaws, including by way of merger, consolidation or otherwise, if such amendment or waiver in any way adversely alters any existing rights, preferences or privileges of the Series A Preferred Stock in a manner materially different from that of any other series of Preferred Stock or results in any increase or decrease in the authorized number of shares of the Series A Preferred Stock.

7.3 Vote Required by Series B Preferred Stock. Except as otherwise expressly provided herein, without the approval by vote or written consent of the holders of two-thirds of the voting power of the then outstanding shares of Series B Preferred Stock, voting as a separate class, the Corporation shall not take any action that constitutes or results in an amendment or waiver of any provision of the Corporation's Amended and Restated Certificate of Incorporation or Bylaws, including by way of merger, consolidation or otherwise, if such amendment or waiver in any way adversely alters any existing rights, preferences or privileges of the Series B Preferred Stock in a manner materially different from that of any other series of Preferred Stock or results in any increase or decrease in the authorized number of shares of the Series B Preferred Stock.

7.4 Vote Required by Series C Preferred Stock. Except as otherwise expressly provided herein, without the approval by vote or written consent of the holders of two-thirds of the voting power of the then outstanding shares of Series C Preferred Stock, voting as a separate class, the Corporation shall not take any action that constitutes or results in an amendment or waiver of any provision of the Corporation's Amended and Restated Certificate of Incorporation

or Bylaws, including by way of merger, consolidation or otherwise, if such amendment or waiver in any way adversely alters any existing rights, preferences or privileges of the Series C Preferred Stock in a manner materially different from that of any other series of Preferred Stock or results in any increase or decrease in the authorized number of shares of the Series C Preferred Stock.

7.5 Vote Required by the Corporation's Board of Directors. Except as otherwise expressly provided herein, the Corporation shall not do any of the following without the approval by vote or written consent of the majority of the members of the Corporation's Board of Directors:

- (a) Issue any shares of Common Stock other than pursuant to any equity incentive plan approved by the Corporation's Board of Directors.
- (b) Incur indebtedness in excess of any amount of working capital bank debt outstanding at the time of the financing.
- (c) Enter into any material agreement affecting the Corporation's right to compete or the licensing of the Corporation's intellectual property rights.
- (d) Provide cash compensation (including base salary and bonuses) for any officer of the Corporation in an amount in excess of \$125,000 per year.
- (e) Enter into any employment agreement that includes more than 30 days of severance.

V.

The Corporation is to have perpetual existence.

VI.

In furtherance and not in limitation of the powers conferred by the laws of the State of Delaware:

- A. Elections of directors need not be by written ballot unless the Bylaws of the Corporation shall so provide.
- B. The books of the Corporation may be kept at such place within or without the State of Delaware as the Bylaws of the Corporation may provide or as may be designated from time to time by the Board of Directors of the Corporation.

VII.

The Corporation eliminates the personal liability of each member of its Board of Directors to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, provided, however, that, to the extent provided by applicable law, the foregoing shall not eliminate the liability of a director (i) for any breach of such director's duty

of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of Title 8 of the Delaware Code or (iv) for any transaction from which such director derived an improper personal benefit. No amendment to or repeal of this provision shall apply to or have any effect on the liability or alleged liability of any director for or with respect to any acts or omissions of such director occurring prior to such amendment or repeal.

VIII.

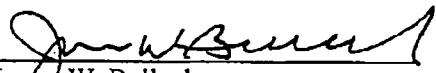
The Corporation reserves the right to amend or repeal any provision contained in this Amended and Restated Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon a stockholder herein are granted subject to this reservation.

IX.

Whenever a compromise or arrangement is proposed between the Corporation and its creditors or any class of them and/or between the Corporation and its stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of the Corporation or of any creditor or stockholder thereof or on the application of any receiver or receivers appointed for the Corporation under the provisions of Section 291 of Title 8 of the Delaware Code or on the application of trustees in dissolution or of any receiver or receivers appointed for the Corporation under the provisions of Section 279 of Title 8 of the Delaware Code, order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholders of the Corporation, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three-fourths in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders of the Corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of the Corporation as consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class of stockholders, of the Corporation, as the case may be, and also on the Corporation.

**[Remainder Of Page Intentionally Left Blank]**

IN WITNESS WHEREOF, the undersigned has signed this Amended and Restated Certificate of Incorporation on behalf of the Corporation on March 8, 2006.

  
James W. Bullock  
President and Chief Executive Officer

State of Delaware  
Secretary of State  
Division of Corporations  
Delivered 11:14 AM 03/08/2006  
FILED 11:14 AM 03/08/2006  
SRV 060226725 - 4119408 FILE

**CERTIFICATE OF OWNERSHIP AND MERGER  
MERGING  
ATRITECH, INC. (MINNESOTA)  
WITH AND INTO  
ATRITECH, INC. (DELAWARE)**

Pursuant to Section 253 of the Delaware General Corporation Law, the undersigned certifies as follows:

FIRST: The constituent corporations are Atritech, Inc., a Minnesota corporation ("Parent"), and Atritech, Inc., a Delaware corporation (the "Company").

SECOND: That Parent was incorporated on December 12, 1999, pursuant to the Minnesota Business Corporation Act, and that the Company was incorporated on March 3, 2006, pursuant to the Delaware General Corporation Law.

THIRD: That Parent owns all of the outstanding shares of each class of stock of the Company.

FOURTH: That the laws of the jurisdiction of organization of Parent permit the merger of a business corporation of that jurisdiction with the business corporation of another jurisdiction.

FIFTH: That the Company hereby merges Parent into the Company (the "Merger").

SIXTH: That the name of the surviving corporation is Atritech, Inc.

SEVENTH: The following is a copy of the resolutions duly adopted as of March 8, 2006, by the Board of Directors of the Company authorizing the merger of Parent into the Company:

NOW, THEREFORE, BE IT RESOLVED, that the plan of merger (the "Plan of Merger"), attached hereto as Exhibit A, setting forth the terms upon which the Parent will merge with and into the Company, is adopted, authorized and approved in all respects.

RESOLVED FURTHER, that upon the surrender of certificates representing duly authorized, validly issued and nonassessable shares of stock of the Parent, the officers of the Company are hereby authorized to issue in accordance with the Company's Bylaws and the Plan of Merger, on a pro rata basis, certificates representing shares of stock of the Company.

RESOLVED FURTHER, that the Company and its officers are authorized and directed to pay such fees, expenses, commissions and other consideration to such persons or entities as such officers may approve in connection with the Reincorporation and related transactions.

RESOLVED FURTHER, that the officers of the Company, and each of them acting alone, are authorized to: (i) execute and deliver such agreements and documents as may be required, including without limitation a Certificate of Ownership and Merger, in the name and on behalf of the Company, and (ii) take all actions which they or any of them may deem necessary or advisable to pay all appropriate fees and expenses and to execute, deliver, file and publish all applications, statements, reports, undertakings, agreements, certificates and other instruments, in order to consummate the Reincorporation, including without limitation the filing of the Certificate of Ownership and Merger with the Secretary of State of the State of Delaware

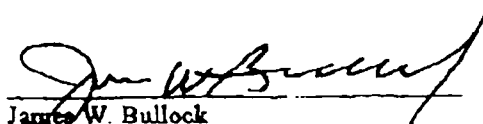
EIGHTH: That the proposed Merger has been adopted, approved, certified, executed and acknowledged by Parent in accordance with the Minnesota Business Corporation Act.

NINTH: That the Merger shall become effective immediately upon the filing of this Certificate with the Office of the Secretary of State of the State of Delaware.

IN WITNESS WHEREOF, the Parent has caused this Certificate of Ownership and Merger to be executed in its corporate name this 8th day of March, 2006.

ATRITECH, INC.

By.

  
James W. Bullock  
President and Chief Executive Officer

**EXHIBIT A**

**PLAN OF MERGER  
OF  
ATRITECH, INC.  
(a Minnesota Corporation)  
AND  
ATRITECH, INC.  
(a Delaware Corporation)**

This plan of merger is made effective as of March 8, 2006, by and between Atritech, Inc., a Minnesota corporation ("Atritech (Minnesota)"), and Atritech, Inc., a Delaware corporation ("Atritech (Delaware)").

WITNESSETH THAT:

WHEREAS, the boards of directors of Atritech (Minnesota) and Atritech (Delaware) have determined that it is advisable and in the best interests of their respective corporations to merge such corporations into a single corporation.

NOW, THEREFORE, Atritech (Minnesota) and Atritech (Delaware) hereby agree upon and adopt this plan of merger ("Plan of Merger").

**I. TERMS AND CONDITIONS**

1.1 Merger. Upon the Effective Date, as defined in Section 1.3 below, Atritech (Minnesota) shall be merged with and into Atritech (Delaware), and Atritech (Delaware) shall be the surviving corporation.

1.2 Terms of Merger. On the Effective Date, each issued and outstanding share of Atritech (Minnesota) capital stock shall be converted into and exchanged for, by reason of the Merger and without any action on the part of the holders thereof, validly issued, fully paid and nonassessable shares of stock of Atritech (Delaware) as follows:

- each outstanding share of common stock of Atritech (Minnesota) shall be converted into one share of common stock of Atritech (Delaware);
- each outstanding share of Series A Preferred Stock ("Series A Preferred") of Atritech (Minnesota) shall be converted into one share of Series A Preferred Stock of Atritech (Delaware);
- each outstanding share of Series B Preferred Stock ("Series B Preferred") of Atritech (Minnesota) shall be converted into one share of Series B Preferred Stock of Atritech (Delaware);

On the Effective Date, each issued and outstanding share of common stock of Atritech (Delaware) shall be cancelled and extinguished, and no shares shall be issued in lieu thereof.

1.3 Effective Date. After the adoption of this Plan of Merger by the vote of the requisite number of holders of shares of each of Atritech (Delaware) and Atritech (Minnesota), this Plan of Merger shall become effective on the date that Articles of Merger and a Certificate of Ownership and Merger have been filed with the secretary of state of Minnesota and the secretary of state of Delaware, respectively (the "Effective Date").

1.4 Effect of Merger. Upon the Effective Date, the provisions of Section 302A.641, subdivisions 2 and 3, of the Minnesota Business Corporation Act shall apply. The separate existence of Atritech (Minnesota) shall cease, and Atritech (Minnesota) shall be merged with and into Atritech (Delaware) as the surviving corporation, and all of the property, assets, rights, privileges, powers, franchises and immunities of Atritech (Delaware) and Atritech (Minnesota) shall vest in Atritech (Delaware), and all of the debts, liabilities, and obligations of Atritech (Delaware) and Atritech (Minnesota) shall become the debts, liabilities, and obligations of Atritech (Delaware).

1.5 Stock Certificates. On and after the Effective Date, all of the outstanding certificates which prior to that time represented shares of stock of Atritech (Minnesota) shall be deemed for all purposes to evidence ownership of and to represent the shares of Atritech (Delaware) into which the shares of Atritech (Minnesota) represented by such certificates have been converted. The registered owner on the books and records of Atritech (Minnesota) of any such outstanding stock certificate shall, until such certificate shall has been surrendered for transfer or exchange or otherwise accounted for to Atritech (Delaware), have and be entitled to exercise any voting and other rights with respect to and to receive any dividend and other distributions upon the shares of Atritech (Delaware) evidenced by such outstanding certificate. Upon the surrender of a certificate representing duly authorized, validly issued and nonassessable shares of stock of Atritech (Minnesota), the officers of Atritech (Delaware) shall issue in accordance with Atritech (Delaware)'s Bylaws and this Plan of Merger, on a pro rata basis, a certificate representing shares of stock of Atritech (Delaware) issuable pursuant to this Plan of Merger.

## II. CHARTER DOCUMENTS, DIRECTORS AND OFFICERS

2.1 Certificate of Incorporation and Bylaws. The certificate of incorporation of Atritech (Delaware), as in effect on the Effective Date, shall continue to be the certificate of incorporation of Atritech (Delaware) until amended in accordance with the provisions thereof and applicable law. The bylaws of Atritech (Delaware), in effect on the Effective Date, shall continue to be the bylaws of Atritech (Delaware) until amended in accordance with the provisions thereof and applicable law.

2.2 Directors and Officers of Atritech (Delaware). From and after the Effective Date, the directors of Atritech (Minnesota) shall continue in office for their current terms as the directors of Atritech (Delaware) and until their successors are elected and qualified, or until their death, resignation or removal. The officers of Atritech (Minnesota) shall become the officers of Atritech (Delaware) on the Effective Date and shall serve at the pleasure of the board of directors.



### III. MISCELLANEOUS

3.1 Service of Process in Minnesota. Atritech (Delaware) hereby consents to service of process in the state of Minnesota in a proceeding for the enforcement of an obligation of a constituent corporation and in a proceeding for the enforcement of the rights of a dissenting shareholder of a constituent corporation against Atritech (Delaware). The secretary of state of the state of Minnesota is irrevocably appointed as the agent of Atritech (Delaware) to accept service of process in any such proceeding, and the process may be forwarded to 3750 Annapolis Lane, Suite 105, Plymouth, Minnesota 55447 Attention: Brad Swatfager.

3.2 Payments to Dissenting Shareholders. Atritech (Delaware) agrees that it will promptly pay to the dissenting shareholders of Atritech (Minnesota) the amount, if any, to which they are entitled under section 302A.473 of the Minnesota Business Corporation Act.

3.3 Abandonment. At any time before the Effective Date, this Plan of Merger may be terminated and abandoned by agreement of the boards of directors of Atritech (Minnesota) and Atritech (Delaware), notwithstanding approval of this Plan of Merger by the shareholders of Atritech (Minnesota) and Atritech (Delaware).

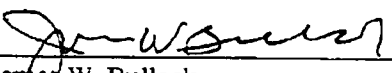
3.4 Amendment. At any time before the Effective Date, this Plan of Merger may be amended, modified or supplemented by the boards of directors of the parties hereto, notwithstanding approval of this Plan of Merger by the shareholders of Atritech (Minnesota) and Atritech (Delaware), provided, however, that no such amendment, notification or supplement not approved by the shareholder shall change any of the principal terms of this Plan of Merger.

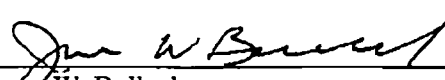
3.5 Further Assurances. From time to time on and after the Effective Date, each party hereto agrees that it will execute and deliver or cause to be executed and delivered all such further assignments, assurances or other instruments, and shall take or cause to be taken all such further actions, as may be necessary or desirable to complete the merger provided for herein and the other transactions contemplated by this Plan of Merger.

IN WITNESS WHEREOF, this Plan of Merger, having first been duly approved by the board of directors of Atritech (Minnesota) and Atritech (Delaware) is hereby executed on behalf of each of said corporations by their respective officers thereunto duly authorized.

ATRITECH, INC.

ATRITECH, INC.

By   
James W. Bullock  
President and Chief Executive Officer

By   
James W. Bullock  
President and Chief Executive Officer

["Atritech (Delaware)"]

["Atritech (Minnesota)"]