

AMENDED AND RESTATED  
CERTIFICATE OF INCORPORATION  
OF  
ALN MEDICAL MANAGEMENT, INC.

Michael Finch, being the Chief Financial Officer and Treasurer of ALN Medical Management, Inc., a corporation duly organized under the General Corporation Law of the State of Delaware (the "Corporation"), hereby certifies that:

1. The name of the Corporation is ALN Medical Management, Inc.
2. The Corporation was incorporated in Delaware on October 27, 1999, under the name ActiveLifeNetwork.com, Inc.
3. The Certificate of Incorporation was subsequently amended and restated on May 27, 2004 and the name of the Corporation was changed to ALN Medical Management, Inc.
4. This Amended and Restated Certificate of Incorporation (hereinafter, the "Restated Certificate") amends and restates the provisions of the Corporation's Certificate of Incorporation, as amended and restated on May 25, 2007.
5. The terms and provisions of this Restated Certificate were adopted and affirmatively approved by the Board of Directors of the Corporation by written consent in lieu of a meeting dated October 23, 2007.
6. The terms and provisions of this Restated Certificate were affirmatively approved by the security holders holding a majority of the issued and outstanding shares of all capital stock of the Corporation, including a majority of each separate class or series of the Corporation's capital stock required to vote thereon as a separate class or series, by written consent in lieu of a meeting dated as of October 23, 2007.
7. Pursuant to Sections 242 and 245 of the General Corporation Law of the State of Delaware, the text of the Certificate of Incorporation of the Corporation, as amended, is hereby amended and restated to read in its entirety as follows:

**ARTICLE 1 – NAME.**

The name of this corporation shall be ALN Medical Management, Inc.

**ARTICLE 2 – REGISTERED OFFICE AND AGENT.**

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.

### **ARTICLE 3 – PURPOSE**

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.

### **ARTICLE 4 – CAPITAL STOCK**

**4.1 Authorized Stock.** The maximum aggregate number of shares of capital stock that this Corporation is authorized to issue is 58,406,245 shares, consisting of:

- (a) 40,000,000 shares of Common Stock, par value \$0.001 per share; and
- (b) 18,406,245 shares of Preferred Stock, par value \$0.001 per share.

**4.2 Common Stock.** All preferences, voting powers, relative, participating, optional or other special rights and privileges and qualifications, limitations or restrictions of the Common Stock are expressly made subject to those that have been or may be fixed with respect to any shares of Preferred Stock. Each share of Common Stock issued and outstanding shall be identical in all respects one with the other. Except for and subject to those rights expressly granted to the holders of Preferred Stock, or except as may be provided by the laws of the State of Delaware; the holders of Common Stock shall have exclusively all other rights of stockholders.

(a) **Voting.** The holders of Common Stock are entitled to one vote for each share held at all meetings of stockholders (and written actions in lieu of meetings). There shall be no cumulative voting. The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of shares of stock of the Corporation representing a majority of the votes represented by all outstanding shares of stock of the Corporation entitled to vote, irrespective of the provisions of Section 242(b)(2) of the Delaware General Corporation Law.

(b) **Dividends.** Dividends may be declared and paid on Common Stock from funds lawfully available therefor as and when determined by the Board of Directors and subject to any preferential dividend rights of any then-outstanding Preferred Stock.

(c) **Liquidation.** Upon the dissolution or liquidation of the Corporation, whether voluntary or involuntary, holders of Common Stock will be entitled to receive all assets of the Corporation available for distribution to its stockholders, subject to any preferential rights of any then-outstanding Preferred Stock.

**4.3 Preferred Stock.** Of the authorized shares of Preferred Stock, 690,645 shares are hereby designated "Series A Preferred Stock," 3,574,614 shares are hereby designated "Series A-1 Preferred Stock," 1,428,572 shares are hereby designated "Series A-2 Preferred Stock," 5,714,286 shares are hereby designated "Series A-3 Preferred Stock" and 6,998,128 shares are

hereby designated "Series A-4 Preferred Stock," each with the relative powers, preferences and rights, and the qualifications, limitations or restrictions of such series as set forth in the succeeding provisions of this Article 4, and hereinafter together referred to as the "Preferred Stock". The balance of shares of authorized Preferred Stock may be issued from time to time in one or more or other series as the Board of Directors may determine, subject to the limitations set forth herein. Subject to the limitations set forth herein and any limitations prescribed by law, the Board of Directors is expressly authorized, prior to issuance of any other series of Preferred Stock, to fix by resolution or resolutions providing for the issuance of any other series, the number of shares included in such other series (which number from time to time may be decreased by the Board of Directors, but not below the number of such shares then outstanding, or may be increased by the Board of Directors unless otherwise prohibited in the terms creating such other series) and the designations, relative powers, preferences and rights, and the qualifications, limitations or restrictions of such other series, including preference with respect to any other series of Preferred Stock, in each case, so far as not inconsistent with the provisions of this Restated Certificate or the General Corporation Law of the State of Delaware as then in effect.

**Section 1. Series A Preferred Stock Stated Value.** Each share of Series A Preferred Stock shall have a stated value of \$1.50 (the "Stated Value").

**Section 2. Dividends.**

(a) **General.** The holders of Preferred Stock shall be entitled to receive out of funds legally available therefor, when, as and if declared by the Corporation's Board of Directors and to the extent permitted under the General Corporation Law of the State of Delaware, cash dividends in accordance with the terms of this Section 2 (as adjusted for any stock split, subdivision, dividend or similar occurrence, the "Preferred Stock Dividends").

(b) **Preference Over Common Stock.** For so long as any shares of Preferred Stock remain outstanding, dividends on Common Stock may not be declared or paid unless full payment of the Liquidation Preference Payments (as defined below) have previously been made or provided for with respect to Preferred Stock.

(c) **Pro-Rata Distribution.** Except as otherwise provided herein, if at any time the Corporation pays less than the total amount of dividends then accrued with respect to the Preferred Stock, such payment shall be distributed pro rata among the holders thereof based upon the number of shares held by each such holder.

(d) **Payment to Holder on Record Date.** The party that holds Preferred Stock on an applicable record date for any dividend payment will be entitled to receive such dividend payment and any other accrued and unpaid dividends which accrued prior to such dividend payment date, without regard to any sale or disposition of such Preferred Stock subsequent to the applicable record date but prior to the applicable dividend payment date.

(e) **Dividends on Series A Preferred Stock.** The holders of Series A Preferred Stock shall also be entitled to receive out of funds legally available therefor, dividends at the same rate as dividends (other than dividends paid in additional shares of Common Stock) are paid with

respect to Common Stock (treating each share of Series A Preferred Stock as being equal to the number of shares of Common Stock (including fractions of a share) into which each share of Series A Preferred Stock is then convertible).

(f) Series A-1, A-2, A-3 and A-4 Preferred Stock Participation with Capital Stock. No dividend or other distribution (other than a dividend payable solely in Common Stock) will be paid, declared, or set apart for payment in respect of any share of any Series of Preferred Stock or Common Stock or any other class or series of capital stock of the Corporation unless a dividend is paid or declared and set apart for payment in respect of each outstanding share of Series A-1 Preferred Stock, Series A-2 Preferred Stock, Series A-3 Preferred Stock or Series A-4 Preferred Stock in an amount at least equal to the amount of dividends so paid, declared, or set apart for each share of Common Stock or other class or series of capital stock of the Corporation, whichever the case may be, multiplied by the number of shares of Common Stock into which such share of Series A-1 Preferred Stock, Series A-2 Preferred Stock, Series A-3 Preferred Stock or Series A-4 Preferred Stock is then convertible.

### Section 3. Voting Rights.

(a) As Converted Basis with Common Stock. The holders of Preferred Stock shall be entitled to notice of all stockholders meetings in accordance with the Corporation's bylaws, and except as otherwise required by applicable law, the holders of Preferred Stock shall be entitled to vote on all matters submitted to the stockholders for a vote together with the holders of the Common Stock, voting together as a single class with each share of Common Stock entitled to one vote per share and each share of Preferred Stock entitled to one vote for each share of Common Stock issuable upon conversion of such Preferred Stock as of the record date for such vote or, if no record date is specified, as of the date of such vote.

(b) Separate Vote of Series A-1, A-2, A-3 and Series A-4 Preferred Stock. In addition to any other vote or consent required herein or by law, for effecting or validating (whether by merger, recapitalization or otherwise) any amendment, alteration, or repeal of any provision of the Restated Certificate or the Bylaws of the Corporation (including any filing of a Certificate of Designation), that alters or changes the voting or other powers, preferences, or other special rights of the Series A-1 Preferred Stock, Series A-2 Preferred Stock, Series A-3 or Series A-4 Preferred Stock so as to affect that respective Series of stock adversely or any increase or decrease in the authorized number of shares of that respective Series of stock, it shall be necessary to obtain:

(1) the vote or written consent of the holders of at least a majority of the outstanding Series A-1 Preferred Stock in those circumstances described above affecting the Series A-1 Preferred Stock;

(2) the vote or written consent of the holders of at least a majority of the outstanding Series A-2 Preferred Stock in those circumstances described above affecting the Series A-2 Preferred Stock;

(3) the vote or written consent of the holders of at least a majority of the outstanding Series A-3 Preferred Stock in those circumstances described above affecting the Series A-3 Preferred Stock; and

(4) the vote or written consent of the holders of at least a majority of the outstanding Series A-4 Preferred Stock in those circumstances described above affecting the Series A-4 Preferred Stock.

#### **Section 4. Liquidation.**

(a) General. Upon any liquidation, dissolution or winding up of the Corporation (whether voluntary or involuntary), including a Deemed Liquidation (as defined in Section 4(e) hereof), the assets of the Corporation available for distribution to its stockholders shall be distributed in the following order of priority:

(1) First, to the holders of Series A-1 Preferred Stock, Series A-2 Preferred Stock, Series A-3 Preferred Stock and Series A-4 Preferred Stock, prior and in preference to any distribution to the holders of the Corporation's Common Stock or any other class of capital stock of the Corporation now or hereafter outstanding, for each such share held by such holders, an amount equal to the sum of (A) \$1.112683 per share of Series A-1 Preferred Stock, \$0.293072 per share of Series A-2 Preferred Stock and \$0.70 per share of Series A-3 Preferred Stock and Series A-4 Preferred Stock (as adjusted for any stock split, subdivision, dividend or similar occurrence) plus (B) all accrued and unpaid dividends thereon. If the assets of the Corporation shall be insufficient to pay in full the amounts provided in this Section 4(a)(1), then the entire assets to be distributed shall be distributed among the holders of Series A-1 Preferred Stock, Series A-2 Preferred Stock, Series A-3 Preferred Stock and Series A-4 Preferred Stock ratably in accordance with the respective amounts that would be payable on all such shares if all amounts payable thereon pursuant to this Section 4(a)(1) were paid in full.

(2) And then, second, to the holders of Series A-1 Preferred Stock, Series A-2 Preferred Stock and Series A Preferred Stock, prior and in preference to any distribution to the holders of the Corporation's Common Stock or any other class of capital stock of the Corporation now or hereafter outstanding, for each such share held by such holders, an amount equal to the sum of (A) \$0.288176 per share of Series A-1 Preferred Stock, \$0.075903 per share of Series A-2 Preferred Stock and \$1.50 per share of Series A Preferred Stock (as adjusted for any stock split, subdivision, dividend or similar occurrence) plus (B) all accrued and unpaid dividends thereon; provided, however, that amounts distributed pursuant to this Section 4(a)(2) shall not exceed \$2,174,519.47. If, after the payment in full of all amounts provided in Section 4(a)(1), the assets of the Corporation shall be insufficient to pay in full the amounts provided in this Section 4(a)(2), then the entire assets to be distributed (after the payment in full of all amounts provided in Section 4(a)(1)) shall be distributed among the holders of Series A-1 Preferred Stock, Series A-2 Preferred Stock and Series A Preferred Stock ratably in accordance with the respective amounts that would be payable on all such shares if all amounts payable thereon pursuant to this Section 4(a)(2) were paid in full.

(3) And then, third, to the holders of Series A Preferred Stock, Series A-1 Preferred Stock, Series A-2 Preferred Stock and Series A-3 Preferred Stock, prior and in

preference to any distribution to the holders of the Corporation's Common Stock or any other class of capital stock of the Corporation now or hereafter outstanding, for each such share held by such holders, an amount equal to the sum of (A) \$0.75 per share of Series A Preferred Stock, \$1.256771 per share of Series A-1 Preferred Stock, \$0.331024 per share of Series A-2 Preferred Stock and \$0.70 per share of Series A-3 Preferred Stock (as adjusted for any stock split, subdivision, dividend or similar occurrence) plus (B) all accrued and unpaid dividends thereon; provided, however, that amounts distributed pursuant to this Section 4(a)(3) shall not exceed \$9,483,347.41. If, after the payment in full of all amounts provided in Sections 4(a)(1) and 4(a)(2), the assets of the Corporation shall be insufficient to pay in full the amounts provided in this Section 4(a)(3), then the entire assets to be distributed (after the payment in full of all amounts provided in Sections 4(a)(1) and 4(a)(2)) shall be distributed among the holders of Series A Preferred Stock, Series A-1 Preferred Stock, Series A-2 Preferred Stock and Series A-3 Preferred Stock ratably in accordance with the respective amounts that would be payable on all such shares if all amounts payable thereon pursuant to this Section 4(a)(3) were paid in full.

(b) Definitions. For purposes of this Section 4, in connection with any liquidation, dissolution or winding up of the Corporation (whether voluntary or involuntary), including a Deemed Liquidation, the payments to be made pursuant to Section 4(a) with respect to Series A Preferred Stock are referred to as "Series A Liquidation Preference Payments", with respect to Series A-1 Preferred Stock are referred to as "Series A-1 Liquidation Preference Payments", with respect to Series A-2 Preferred Stock are referred to as the "Series A-2 Liquidation Preference Payments", with respect to Series A-3 Preferred Stock are referred to as the "Series A-3 Liquidation Preference Payments" and with respect to the Series A-4 Preferred Stock are referred to as the "Series A-4 Liquidation Preference Payments" and all are collectively referred to as the "Liquidation Preference Payments."

(c) Notice of Liquidation. Written notice of such liquidation, dissolution or winding up of the Corporation (whether voluntary or involuntary), including a Deemed Liquidation, stating a payment date, the amount of the Liquidation Preference Payments and the place where said Liquidation Preference Payments shall be payable, shall be delivered in person, mailed by certified or registered mail, return receipt requested, or sent by facsimile, not less than 20 days prior to the payment date stated therein, to the holders of record of Preferred Stock, such notice to be addressed to each such holder at its address as shown by the records of the Corporation. Such notice shall also state the current Conversion Price for each series of Preferred Stock, the method of conversion, and the date by which the Corporation must receive requests for conversion prior to payment of the Liquidation Preference Payments.

(d) Preference Over Other Capital Stock. For purposes of this Section 4, Common Stock and other capital stock of the Corporation other than Series A Preferred Stock, Series A-1 Preferred Stock, Series A-2 Preferred Stock, Series A-3 Preferred Stock and Series A-4 Preferred Stock shall each rank junior to any series of Preferred Stock with regard to any payments made in connection with any liquidation, dissolution or winding up of the Corporation (whether voluntary or involuntary), including a Deemed Liquidation (collectively, "Junior Securities").

(e) Deemed Liquidation. In addition to the events constituting liquidation, dissolution or winding up under the Delaware General Corporation law, the following events

shall be considered a liquidation under this Section 4 ("Deemed Liquidation"); if, any time after the date this Restated Certificate is filed with the Secretary of State of the State of Delaware (the "Effective Date"), the Corporation shall: (1) sell, convey, or otherwise dispose of all or substantially all of its property or business (an "Asset Transfer"); or (2) merge into or consolidate with any other corporation (other than a wholly-owned subsidiary corporation) or effect any other transaction or series of related transactions in which more than fifty percent (50%) of the voting power of the Corporation is disposed of (an "Acquisition"); provided, however, that this Section 4(e) shall not apply to a merger effected exclusively for the purpose of changing the domicile of the Corporation.

**Section 5. Conversion.** The holders of shares of Preferred Stock shall have the following conversion rights:

(a) **Right to Convert.** Subject to the terms and conditions of this Section 5, the holder of any share or shares of Preferred Stock shall have the right, at its option at any time, and from time to time, to convert all or any such shares of Preferred Stock into shares of Common Stock as follows:

(1) **Series A Preferred Stock.** The holder of any share or shares of Series A Preferred Stock shall have the right to convert up to one hundred percent (100%) of such shares of Series A Preferred Stock into shares of Common Stock at a 1:1 conversion rate of each share of Series A Preferred Stock to Common Stock (the "Series A Conversion Rate"). Any conversion under this Section 5(a)(1) shall be a minimum amount of at least 5000 shares of Series A Preferred Stock.

(2) **Series A-1, A-2, A-3 and A-4 Preferred Stock.** The holder of any share or shares of Series A-1 Preferred Stock, Series A-2 Preferred Stock, Series A-3 Preferred Stock or Series A-4 Preferred Stock shall have the right to convert all or any such shares of each respective Series of stock (except that upon any liquidation of the Corporation the right of conversion shall terminate at the close of business on the business day fixed for payment of the amount distributable on each respective Series of stock) into such number of fully paid and nonassessable shares of Common Stock as is obtained by multiplying the number of shares of the respective Series of stock to be converted by the original purchase price of that Series and dividing the result by that Series Conversion Price (hereinafter defined) then in effect.

(b) **Series A Preferred Stock Conversion Procedures.** The holder shall effect conversions under section 5(a)(1) by surrendering the certificate or certificates representing the shares of Series A Preferred Stock to be converted to the Corporation, duly endorsed, together with a form of conversion notice in the manner set forth below in Section 5(b)(1). Each notice (a "Conversion Notice") shall specify the number of shares of Series A Preferred Stock to be converted and the date on which such conversion is to be effected, which date may not be prior to the date the Holder delivers such notice to the Corporation in accordance with Section 5(b)(1). Each notice, once given, shall be irrevocable.

(1) Each Conversion Notice by a holder of Series A Preferred Stock or by the Corporation shall be given by mail or overnight courier, postage prepaid, and in the case

of the Corporation, properly addressed to the attention of the Chief Financial Officer of the Corporation at the address of the principal place of business of the Corporation and if to the holder, to the address maintained by the Corporation in its records. Any such notice shall be deemed given and effective upon the earliest to occur of the following: (i) five days after mailing; (ii) one day after delivery by recognized courier; (iii) actual receipt by the party to whom it is addressed; or (iv) such later date as is specified in the Conversion Notice.

(2) The date upon which the conversion shall be effective for purposes of Section 5(a) (the "Conversion Date") shall be the day upon which notice is effective in accordance with Section 5(b)(1).

(3) As soon as practical after the Conversion Date, the Corporation will deliver to the holder (i) a certificate or certificates representing the number of shares of Common Stock being acquired upon the conversion of shares of Series A Preferred Stock; and (ii) one or more certificates representing the number of shares of Series A Preferred Stock not converted, if applicable; provided, however, that the Corporation shall not be obligated to issue certificates evidencing the shares of Common Stock issuable upon conversion of any shares of Series A Preferred Stock until certificates evidencing such shares of Series A Preferred Stock are either delivered for conversion to the Corporation or any transfer agent for Series A Preferred Stock or Common Stock, or the holder notifies the Corporation that such certificates have been lost, stolen or destroyed and provides a bond (or other adequate security reasonably acceptable to the Corporation) satisfactory to the Corporation to indemnify the Corporation from any loss incurred by it in connection therewith.

(4) Unless subsequently registered, all Common Stock will be restricted under relevant provisions of Federal and state securities laws.

(c) Series A-1, A-2, A-3 and Series A-4 Preferred Stock Conversion Procedures.

(1) Such rights of conversion shall be exercised by the holder of Series A-1 Preferred Stock, Series A-2 Preferred Stock, Series A-3 Preferred Stock or Series A-4 Preferred Stock by giving written notice to the Corporation that the holder elects to convert a stated number of shares of that respective Series of stock into Common Stock and by surrendering the certificate or certificates for the shares so to be converted to the Corporation at its principal office (or such other office or agency of the Corporation as the Corporation may designate by notice in writing to the holders of Preferred Stock) at any time during its usual business hours on the date set forth in such notice, together with a statement of the name or names (with address) in which the certificate or certificates for shares of Common Stock shall be issued.

(2) Promptly after the receipt of the written notice referred to in Section 5(c)(1) and surrender of the certificate or certificates for the share or shares of Series A-1 Preferred Stock, Series A-2 Preferred Stock, Series A-3 Preferred Stock or Series A-4 Preferred Stock to be converted, the Corporation



shall issue and deliver, or cause to be issued and delivered, to the holder, registered in such name or names as such holder may direct (subject to applicable transfer restrictions), a certificate or certificates for the number of whole shares of Common Stock issuable upon the conversion of such share or shares of that respective Series of Stock. To the extent permitted by law, such conversion shall be deemed to have been effected and the Conversion Price shall be determined as of the close of business on the date on which such written notice shall have been received by the Corporation and the certificate or certificates for such share or shares shall have been surrendered as aforesaid, and at such time the rights of the holder of such share or shares of each respective Series of stock shall cease, and the person or persons in whose name or names any certificate or certificates for shares of Common Stock shall be issuable upon such conversion shall be deemed to have become the holder or holders of record of the shares represented thereby.

(d) Series A-1, A-2, A-3 and A-4 Preferred Stock Conversion Price.

(1) Initial Conversion Price. The initial Conversion Price of Series A-1 Preferred Stock, Series A-2 Preferred Stock, Series A-3 Preferred Stock or Series A-4 Preferred Stock shall be the original purchase price per share of each respective Series of stock; provided that in case an adjustment of such price has taken place pursuant to the further provisions of this Section 5, then the conversion price as last adjusted and in effect at the date any share or shares of Series A-1 Preferred Stock, Series A-2 Preferred Stock, Series A-3 Preferred Stock or Series A-4 Preferred Stock are surrendered for conversion (such price, or such price as last adjusted, being referred to as the "Series A-1 Conversion Price", "Series A-2 Conversion Price", "Series A-3 Conversion Price," and "Series A-4 Conversion Price" respectively) shall be used in the conversion calculation.

(2) Adjustment of Conversion Price. If and whenever on or after the Effective Date, the Corporation issues or sells, or in accordance with Section 5(e) is deemed to have issued or sold, any shares of Common Stock without consideration or for a consideration per share less than the Series A-1 Conversion Price, Series A-2 Conversion Price, Series A-3 Conversion Price or Series A-4 Conversion Price in effect immediately prior to the time of such issuance or sale, then, forthwith upon such issuance or sale or deemed issuance or sale, the Series A-1 Conversion Price, Series A-2 Conversion Price, Series A-3 Conversion Price and Series A-4 Conversion Price, as the case may be, shall be reduced, concurrently with such issuance or sale, to the lowest net price per share at which any such share of Common Stock has been issued or sold or is deemed to have been issued or sold.

(3) Notice of Adjustment. Upon any adjustment of the Series A-1 Conversion Price, Series A-2 Conversion Price, Series A-3 Conversion Price or Series A-4 Conversion Price, then and in each such case, the Corporation shall give written notice thereof by delivery in person, certified or registered mail, return receipt requested, telecopier or telex addressed to each holder of shares of Series A-1 Preferred Stock, Series A-2 Preferred Stock, Series A-3 Preferred Stock or Series A-4 Preferred Stock at

the address of such holder as shown on the books of the Corporation, which notice shall state the Series A-1 Conversion Price, Series A-2 Conversion Price, Series A-3 Conversion Price or Series A-4 Conversion Price resulting from such adjustment, setting forth in reasonable detail the method upon which such calculation is based.

(e) Effect on Series A-1, A-2, A-3 and A-4 Conversion Price of Certain Events. For purposes of determining the adjusted Series A-1 Conversion Price, Series A-2 Conversion Price, Series A-3 Conversion Price or Series A-4 Conversion Price under Section 5(d)(2), the following shall be applicable:

(1) Issuance of Rights or Options. In case at any time the Corporation shall in any manner, issue, sell or grant (whether directly or by assumption in a merger or otherwise) any warrants or other rights to subscribe for or to purchase, or any options for the purchase of Common Stock or any stock or security convertible into or exchangeable for Common Stock (such warrants, rights or options being called "Options" and such convertible or exchangeable stock or securities being called "Convertible Securities") whether or not such Options or the right to convert or exchange any such Convertible Securities are immediately exercisable, and the price per share for which Common Stock is issuable upon the exercise of such Options or upon the conversion or exchange of such Convertible Securities (determined by dividing: (i) the total amount, if any, received or receivable by the Corporation as consideration for the granting of such Options, plus the minimum aggregate amount of additional consideration payable to the Corporation upon the exercise of all such Options, plus, in the case of such Options which relate to Convertible Securities, the minimum aggregate amount of additional consideration, if any, payable upon the issue or sale of such Convertible Securities and upon the conversion or exchange thereof; by (ii) the total maximum number of shares of Common Stock issuable upon the exercise of such Options or upon the conversion or exchange of all such Convertible Securities issuable upon the exercise of such Options) shall be less than the Series A-1 Conversion Price, Series A-2 Conversion Price, Series A-3 Conversion Price or Series A-4 Conversion Price in effect immediately prior to the time of the granting of such Options, then the total maximum number of shares of Common Stock issuable upon the exercise of such Options or upon conversion or exchange of the total maximum amount of such Convertible Securities issuable upon the exercise of such Options shall be deemed to have been issued for such price per share as of the date of granting of such Options or the issuance of such Convertible Securities. Except as otherwise provided in Section 5(e)(3), no further adjustment of the Series A-1 Conversion Price, Series A-2 Conversion Price, Series A-3 Conversion Price or Series A-4 Conversion Price shall be made upon the actual issue of such Common Stock or of such Convertible Securities upon exercise of such Options or upon the actual issue of such Common Stock upon conversion or exchange of such Convertible Securities.

(2) Issuance of Convertible Securities. In case the Corporation shall in any manner issue (whether directly or by assumption in a merger or otherwise) or sell any Convertible Securities, whether or not the rights to exchange or convert any such Convertible Securities are immediately exercisable, and the price per share for which Common Stock is issuable upon such conversion or exchange (determined by dividing:

(i) the total amount received or receivable by the Corporation as consideration for the issue or sale of such Convertible Securities, plus the minimum aggregate amount of additional consideration, if any, payable to the Corporation upon the conversion or exchange thereof; by (ii) the total maximum number of shares of Common Stock issuable upon the conversion or exchange of all such Convertible Securities) shall be less than the Series A-1 Conversion Price, Series A-2 Conversion Price, Series A-3 Conversion Price or Series A-4 Conversion Price in effect immediately prior to the time of such issue or sale, then the total maximum number of shares of Common Stock issuable upon conversion or exchange of all such Convertible Securities shall be deemed to have been issued for such price per share as of the date of the issue or sale of such Convertible Securities, provided that: (A) except as otherwise provided in Section 5(e)(3), no adjustment of the Series A-1 Conversion Price, Series A-2 Conversion Price, Series A-3 Conversion Price or Series A-4 Conversion Price shall be made upon the actual issue of such Common Stock upon conversion or exchange of such Convertible Securities; and (B) if any such issue or sale of such Convertible Securities is made upon exercise of any Options to purchase any such Convertible Securities for which adjustments of the Series A-1 Conversion Price, Series A-2 Conversion Price, Series A-3 Conversion Price or Series A-4 Conversion Price have been or are to be made pursuant to other provisions of this Section 5(e), no further adjustment of the Series A-1 Conversion Price, Series A-2 Conversion Price, Series A-3 Conversion Price or Series A-4 Conversion Price shall be made by reason of such issue or sale.

(3) Change in Option Price or Conversion Price. Upon the happening of any of the following events, namely, if the purchase price provided for in any Option referred to in Section 5(e)(1), the additional consideration, if any, payable upon the conversion or exchange of any Convertible Securities referred to in Section 5(e)(1) or (2), or the rate at which Convertible Securities referred to in Section 5(e)(1) or (2) are convertible into or exchangeable for Common Stock shall change at any time (including, but not limited to, changes under or by reason of provisions designed to protect against dilution), the Series A-1 Conversion Price, Series A-2 Conversion Price, Series A-3 Conversion Price or Series A-4 Conversion Price in effect at the time of such event shall forthwith be readjusted to the Series A-1 Conversion Price, Series A-2 Conversion Price, Series A-3 Conversion Price or Series A-4 Conversion Price which would have been in effect at such time had such Options or Convertible Securities still outstanding provided for such changed purchase price, additional consideration or conversion rate, as the case may be, at the time initially granted, issued or sold, but only if as a result of such adjustment the Series A-1 Conversion Price, Series A-2 Conversion Price, Series A-3 Conversion Price or Series A-4 Conversion Price then in effect hereunder is thereby reduced and on the termination of any such Option or any such right to convert or exchange such Convertible Securities without exercise, conversion or exchange thereof, the Series A-1 Conversion Price, Series A-2 Conversion Price, Series A-3 Conversion Price or Series A-4 Conversion Price then in effect hereunder shall forthwith be increased to the Series A-1 Conversion Price, Series A-2 Conversion Price, Series A-3 Conversion Price or

Series A-4 Conversion Price which would have been in effect at the time of such termination had such Option or Convertible Securities, to the extent outstanding immediately prior to such termination, never been issued.

(4) Stock Dividends. In case the Corporation shall declare a dividend or make any other distribution upon any stock of the Corporation (other than the Common Stock) payable in Common Stock, Options or Convertible Securities, then any Common Stock, Options or Convertible Securities, as the case may be, issuable in payment of such dividend or distribution shall be deemed to have been issued or sold without consideration.

(5) Calculation of Consideration Received. In case any shares of Common Stock, Options or Convertible Securities shall be issued or sold for cash, the consideration received therefor shall be deemed to be the amount received by the Corporation therefor, without deduction therefrom of any expenses incurred or any underwriting commissions, discounts or concessions paid or allowed by the Corporation in connection therewith. In case any shares of Common Stock, Options or Convertible Securities shall be issued or sold for a consideration other than cash, the amount of the consideration other than cash received by the Corporation shall be deemed to be the fair value of such consideration as determined in the reasonable good faith judgment of the Board of Directors of the Corporation, without deduction of any expenses incurred or any underwriting commissions, discounts or concessions paid or allowed by the Corporation in connection therewith. In case any Options or Convertible Securities shall be issued in connection with the issue and sale of other securities of the Corporation, together comprising one integral transaction in which no specific consideration is allocated to such Options or Convertible Securities by the parties therein, such Options or Convertible Securities shall be deemed to have been issued for a consideration of \$.001.

(6) Record Date. In case the Corporation shall take a record of the holders of its Common Stock for the purpose of entitling them: (i) to receive a dividend or other distribution payable in Common Stock, Options or Convertible Securities; or (ii) to subscribe for or purchase Common Stock, Options or Convertible Securities, then such record date shall be deemed to be the date of the issue or sale of the shares of Common Stock deemed to have been issued or sold upon the declaration of such dividend or the making of such other distribution or the date of the granting of such right of subscription or purchase, as the case may be.

(7) Treasury Shares. The number of shares of Common Stock outstanding at any given time shall not include shares owned or held by or for the account of the Corporation, and the disposition of any such shares shall be considered an issue or sale of Common Stock for the purpose of this Section 5(e).

(f) Certain Issues of Common Stock Excepted for Conversion Price Adjustment. Notwithstanding anything set forth herein to the contrary, the Corporation shall not be required to make any adjustment of the Series A-1 Conversion Price, Series A-2 Conversion Price, Series A-3 Conversion Price or Series A-4 Conversion Price (appropriately adjusted to reflect the occurrence of any event described in Section 5(e)) in the case of the issuance or sale from and after the Effective Date of shares of Common Stock: (i) pursuant to an equity compensation plan approved by the Corporation's Board of Directors; (ii) upon conversion of shares of Preferred Stock; (iii) pursuant to a Qualified Public Offering; or (iv) as a stock dividend, stock split or combination, reorganization or reclassification or other stock distribution with which an adjustment to the Series A-1 Conversion Price, Series A-2 Conversion Price, Series A-3 Conversion Price or Series A-4 Conversion Price is made pursuant to Sections 5(e)(4), 5(g) and 5(h). The reissuance of shares of Common Stock, the issuance of which was originally excepted pursuant to subsection (i) above, which are repurchased by the Corporation from such persons after such date pursuant to contractual rights held by the Corporation and at repurchase prices not exceeding the respective original purchase prices paid by such persons to the Corporation therefor, plus interest, shall likewise be excepted if the terms of the approved equity compensation plan permits such reissuance.

(g) Subdivision or Combination of Common Stock.

(1) Series A Preferred Stock. If the Corporation shall at any time subdivide (by any stock split, stock dividend or otherwise) its outstanding shares of Common Stock into a greater number of shares, the Conversion Rate in effect immediately prior to such subdivision shall be proportionately adjusted so that each share of Series A Preferred Stock converts into the corresponding increased number of shares of Common Stock, and conversely, in case the number of outstanding shares of Common Stock shall be combined into a smaller number of shares, the Conversion Rate in effect immediately prior to such combination shall be proportionately adjusted so that each share of Series A Preferred Stock converts into the corresponding decreased number of shares of Common Stock. (Example, if the outstanding shares of Common Stock are subdivided into twice as many shares, then the Conversion Rate shall be adjusted so that each share of Series A Preferred Stock is convertible into two shares of Common Stock, and conversely, if the outstanding shares of Common Stock are combined into half as many shares, then the Conversion Rate shall be adjusted so that each share of Series A Preferred Stock is convertible into one-half share of Common Stock).

(2) Series A-1, A-2, A-3 and A-4 Preferred Stock. If the Corporation shall at any time subdivide (by any stock split, stock dividend or otherwise) its outstanding shares of Common Stock into a greater number of shares, the Series A-1 Conversion Price, Series A-2 Conversion Price, Series A-3 Conversion Price or Series A-4 Conversion Price in effect immediately prior to such subdivision shall be proportionately reduced, and conversely, in case the number of outstanding shares of Common Stock shall be combined into a smaller number of shares, the Series A-1 Conversion Price, Series A-2 Conversion Price, Series A-3 Conversion Price or Series A-4 Conversion Price in effect immediately prior to such combination shall be proportionately increased. In the case of

any such subdivision, no further adjustment shall be made pursuant to Section 5(e)(4) by reason thereof.

(h) Reorganization or Reclassification.

(1) Series A Preferred Stock. In case of any reclassification of the Common Stock, any consolidation or merger of the Corporation with or into another Person (defined as a corporation, an association, a partnership, organization, a business, an individual, a government or political subdivision thereof or a governmental agency), the sale or transfer of all or substantially all of the assets of the Corporation or any compulsory share exchange pursuant to which Common Stock is converted into other securities, cash or property (unless such consolidation, merger, sale or transfer or share exchange is a "Deemed Liquidation"), the holders of Series A Preferred Stock then outstanding shall have the right thereafter to convert such shares only into the shares of stock and other securities and property receivable upon or deemed to be held by holders of Common Stock following such reclassification, consolidation, merger, sale, transfer or share exchange, and the holders of Series A Preferred Stock shall be entitled upon such conversion to receive such amount of securities or property as the shares of Common Stock into which such shares of Series A Preferred Stock could have been converted immediately prior to such reclassification, consolidation, merger, sale, transfer or share exchange would have been entitled. The terms of any such consolidation, merger, sale, transfer or share exchange shall include such terms so as to continue to give to the holder of Series A Preferred Stock the right to receive the securities or property set forth in this Section 5(c)(1) upon any conversion following such consolidation, merger, sale, transfer or share exchange. This provision shall similarly apply to successive reclassifications, consolidations, mergers, sales, transfers or share exchanges.

(i) If:

- a. the Corporation shall declare a dividend (or any other distribution) on its Common Stock; or
- b. the Corporation shall declare a special nonrecurring cash dividend on or a redemption of its Common Stock; or
- c. the Corporation shall authorize the granting to all holders of the Common Stock rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights; or
- d. the approval of any stockholders of the Corporation shall be required in connection with any reclassification of the Common Stock of the Corporation (other than a subdivision or combination of the outstanding shares of Common Stock), any consolidation or merger to which the Corporation is a party, any sale or transfer of all or substantially all of the assets of the Corporation, or any compulsory share exchange whereby the Common Stock is converted into other securities, cash or property; or

e. the Corporation shall authorize the voluntary or involuntary dissolution, liquidation or winding-up of the affairs of the Corporation; then the Corporation shall cause to be filed at each office or agency maintained for the purpose of conversion of Series A Preferred Stock, and shall cause to be mailed to the holders of Series A Preferred Stock at their last addresses as they shall appear upon the stock books of the Corporation, at least 15 calendar days prior to the applicable record or effective date hereinafter specified, a notice stating: (A) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, 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, distributions, redemption, rights or warrants are to be determined; or (B) the date on which such reclassification, consolidation, merger, sale, transfer, share exchange, dissolution, liquidation 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, transfer, share exchange, dissolution, liquidation or winding-up; provided, however, that the failure to mail such notice or any defect therein or in the mailing thereof shall not affect the validity of the corporate action required to be specified in such notice and provided further that such notice may be waived in writing by holders of at least 51% of the outstanding shares of Preferred Stock. The failure of a holder of any Series A Preferred Stock to exercise the right of conversion prior to the record date for any action set forth above shall cause such holder to forfeit any rights accruing to the Common Stock.

(2) Series A-1, A-2, A-3 and A-4 Preferred Stock. If any capital reorganization or reclassification of the capital stock of the Corporation shall be effected in such a way that holders of Common Stock shall be entitled to receive stock, securities or assets with respect to or in exchange for Common Stock, then, as a condition of such reorganization or reclassification, lawful and adequate provisions shall be made whereby each holder of a share or shares of Preferred Stock shall thereupon have the right to receive, upon the basis and upon the terms and conditions specified herein and in lieu of the shares of Common Stock immediately theretofore receivable upon the conversion of such share or shares of Series A-1 Preferred Stock, Series A-2 Preferred Stock, Series A-3 Preferred Stock or Series A-4 Preferred Stock such shares of stock, securities or assets as may be issued or payable with respect to or in exchange for a number of outstanding shares of such Common Stock equal to the number of shares of such Common Stock immediately theretofore receivable upon such conversion had such reorganization or reclassification not taken place, and in any such case appropriate provisions shall be made with respect to the rights and interests of such holder to the end that the provisions hereof (including, without limitation, provisions for adjustment of the Conversion Price) shall thereafter be applicable, as nearly as may be, in relation to any shares of stock, securities or assets thereafter deliverable upon the exercise of such conversion rights.

(i) Mandatory Conversion.

(1) Series A Preferred Stock. Each share of Series A Preferred Stock shall automatically be converted into shares of Common Stock immediately upon the closing of an underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, covering the offer and sale of Common Stock for the account of the Corporation. Series A Preferred Stock shall convert automatically and without any further action by the holders of such shares and whether or not the certificates representing such shares are surrendered to the Corporation or its transfer agent for the Common Stock.

(i) Upon the occurrence of the conversion specified in Section (5)(i)(1), the holders of such Series A Preferred Stock shall surrender the certificates representing such shares at the office of the Corporation or of its transfer agent for the Common Stock. Thereupon, there shall be issued and delivered to such holder a certificate or certificates for the number of shares of Common Stock into which the shares of Series A Preferred Stock surrendered were convertible on the date on which such conversion occurred.

(2) Series A-1, A-2, A-3 and A-4 Preferred Stock. If at any time the Corporation shall effect a firm commitment underwritten public offering of shares of Common Stock in which: (i) the aggregate gross proceeds to the Corporation shall be at least \$15,000,000; (ii) the price paid by the public for such shares shall be at least \$2.10 (prior to underwriter discounts and commissions, if any) (as adjusted for stock splits, dividends or combinations or similar events); and (iii) immediately following the closing of the sale of such shares by the Corporation pursuant to such public offering (the "Public Offering Closing") shares of Common Stock will be listed on either the: (A) New York Stock Exchange; (B) NASDAQ System; or (C) American Stock Exchange ("Qualified Public Offering"), then effective upon the Public Offering Closing all outstanding shares of Series A-1 Preferred Stock, Series A-2 Preferred Stock, Series A-3 Preferred Stock and Series A-4 Preferred Stock shall automatically convert into shares of Common Stock at the applicable Conversion Price then in effect in accordance with this Section 4. Holders of shares of Series A-1 Preferred Stock, Series A-2 Preferred Stock, Series A-3 Preferred Stock or Series A-4 Preferred Stock so converted may deliver to the Corporation at its principal office (or such other office or agency of the Corporation as the Corporation may designate by notice in writing to such holders) during its usual business hours, the certificate or certificates for the shares so converted. As promptly as practicable thereafter, the Corporation shall issue and deliver to such holder a certificate or certificates for the number of whole shares of Common Stock to which such holder is entitled, together with any cash dividends and payment in lieu of fractional shares to which such holder may be entitled pursuant to Section 5(j). Until such time as a holder of shares of Series A-1 Preferred Stock, Series A-2 Preferred Stock, Series A-3 Preferred Stock or Series A-4 Preferred Stock shall surrender his or its certificates therefor as provided above, such certificates shall be deemed to represent the shares of Common Stock to which such holder shall be entitled upon the surrender thereof.

(j) Fractional Shares.



(1) Series A Preferred Stock. Upon a conversion hereunder by a holder of Series A Preferred Stock, the Corporation shall not be required to issue stock certificates representing fractions of shares of Common Stock, but may if otherwise permitted, make a cash payment in respect of any final fraction of a share based on then market value at such time. If the Corporation elects not, or is unable, to make such a cash payment, the holder of Series A Preferred Stock shall be entitled to receive, in lieu of the final fraction of a share, one whole share of Common Stock.

(2) Series A-1, A-2, A-3 and A-4 Preferred Stock. In the case of conversion of any share or shares of Series A-1 Preferred Stock, Series A-2 Preferred Stock, Series A-3 Preferred Stock or Series A-4 Preferred Stock, no fractional shares shall be issued upon conversion of each respective Series of stock into Common Stock. If any fractional share of Common Stock would, except for the provisions of the first sentence of this Section 4(c)(2), be delivered upon such conversion, the Corporation, in lieu of delivering such fractional share, shall pay to the holder surrendering the Series A-1 Preferred Stock, Series A-2 Preferred Stock, Series A-3 Preferred Stock or Series A-4 Preferred Stock for conversion an amount in cash equal to the current fair value of such fractional share as determined in the reasonable good faith judgment of the Board of Directors of the Corporation.

(k) Dividends and Partial Conversion on Series A-1, A-2, A-3 and A-4 Preferred Stock.

(1) No payment or adjustment shall be made upon any conversion of Series A-1 Preferred Stock, Series A-2 Preferred Stock, Series A-3 Preferred Stock or Series A-4 Preferred Stock on account of any cash dividends on the Common Stock issued upon such conversion. At the time of each conversion, the Corporation shall pay in cash an amount equal to all dividends accrued and unpaid on the shares of Series A-1 Preferred Stock, Series A-2 Preferred Stock, Series A-3 Preferred Stock or Series A-4 Preferred Stock surrendered for conversion to the date upon which such conversion is deemed to take place as provided in Section 5(c)(2).

(2) In case the number of shares of Series A-1 Preferred Stock, Series A-2 Preferred Stock, Series A-3 Preferred Stock or Series A-4 Preferred Stock represented by the certificate or certificates surrendered pursuant to Section 5(c)(2) exceeds the number of shares converted, the Corporation shall, upon such conversion, execute and deliver to the holder, at the expense of the Corporation, a new certificate or certificates for the number of shares of Series A-1 Preferred Stock, Series A-2 Preferred Stock, Series A-3 Preferred Stock or Series A-4 Preferred Stock represented by the certificate or certificates surrendered which are not to be converted.

(l) Stock to be Reserved. The Corporation will at all times reserve and keep available out of its authorized Common Stock, solely for the purpose of issuance upon the conversion of Preferred Stock as herein provided, such number of shares of Common Stock as shall then be issuable upon the conversion of all outstanding shares of Preferred Stock. The

Corporation covenants that all shares of Common Stock which shall be so issued shall be duly and validly issued and fully paid and nonassessable.

(1) Series A Preferred Stock. The Corporation covenants that it will at all times reserve and keep the Common Stock reserved for the purpose of issuance of conversion of Series A Preferred Stock free from preemptive rights or any other actual contingent purchase rights of persons other than the holders of Series A Preferred Stock.

(2) Series A-1, A-2, A-3 and A-4 Preferred Stock. The Corporation covenants that it will at all times reserve and keep the Common Stock reserved for the purpose of issuance of conversion of Series A-1 Preferred Stock, Series A-2 Preferred Stock, Series A-3 Preferred Stock and Series A-4 Preferred Stock free from all taxes, liens and charges with respect to the issue thereof, and, without limiting the generality of the foregoing, the Corporation covenants that it will from time to time take all such action as may be requisite to assure that the par value per share of the Common Stock is at all times equal to or less than the Conversion Price in effect at the time for each respective Series of stock. The Corporation will take all such action as may be necessary to assure that all such shares of Common Stock may be so issued without violation of any applicable law or regulation, or of any requirement of any national securities exchange upon which the Common Stock may be listed. The Corporation will not take any action which results in any adjustment of the Conversion Price if the total number of shares of Common Stock issued and issuable after such action upon conversion of each respective Series of stock would exceed the total number of shares of Common Stock then authorized by this Restated Certificate; provided that, without limitation as to other remedies which the holders of Series A-1 Preferred Stock, Series A-2 Preferred Stock, Series A-3 Preferred Stock or Series A-4 Preferred Stock may have with respect to the Corporation's failure to make Conversion Price adjustments or provide for sufficient reserved shares of Common Stock to effect conversion at such reduced conversion prices in accordance with the terms hereof (which other remedies shall not be limited by the first clause of this sentence), the Corporation in such event shall forthwith take such corporate actions as is necessary in order to provide for sufficient authorized shares of Common Stock to permit conversion of all of Series A-1 Preferred Stock at such adjusted Series A-1 Conversion Price, all of Series A-2 Preferred Stock at such adjusted Series A-2 Conversion Price, all of Series A-3 Preferred Stock at such adjusted Series A-3 Conversion Price and all of Series A-4 Preferred Stock at such adjusted Series A-4 Conversion Price, including, if necessary, seeking approval of its stockholders to amend this Restated Certificate, after which the Corporation shall promptly effect such adjustment to each respective series' Conversion Price.

(m) No Reissuance of Preferred Stock. Shares of Preferred Stock which are converted into shares of Common Stock as provided herein or which have been acquired by the Corporation by reason of redemption, purchase or otherwise shall not be reissued and all such shares shall be canceled.

(n) Issue Tax. The issuance of certificates for shares of Common Stock upon conversion of Preferred Stock shall be made without charge to the holders thereof for any

issuance tax in respect thereof provided that the Corporation shall not be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of any certificate in a name other than that of the holder of Preferred Stock which is being converted.

(o) Closing of Books. The Corporation will at no time close its transfer books against the transfer of any Series A-1 Preferred Stock, any Series A-2 Preferred Stock, any Series A-3 Preferred Stock, any Series A-4 Preferred Stock or of any shares of Common Stock issued or issuable upon the conversion of any shares of Series A-1 Preferred Stock, Series A-2 Preferred Stock, Series A-3 Preferred Stock or Series A-4 Preferred Stock in any manner which interferes with the timely conversion of such Series A-1 Preferred Stock, Series A-2 Preferred Stock, Series A-3 Preferred Stock or Series A-4 Preferred Stock except as may otherwise be required to comply with applicable securities laws.

(p) Other Notices. In case at any time: (1) the Corporation shall declare any dividend upon its Common Stock payable in cash or stock or make any other distribution to the holders of its Common Stock; (2) the Corporation shall offer for subscription pro rata to the holders of its Common Stock any additional shares of stock of any class or other rights; (3) there shall be any Acquisition, Asset Transfer, capital reorganization or reclassification of the capital stock of the Corporation; or (4) there shall be a voluntary or involuntary dissolution, liquidation or winding up of the Corporation, then, in any one or more of said cases, the Corporation shall give, by delivery in person, certified or registered mail, return receipt requested, telecopier or telex, addressed to each holder of any shares of Series A-1 Preferred Stock, Series A-2 Preferred Stock, Series A-3 Preferred Stock and Series A-4 Preferred Stock at the address of such holder as shown on the books of the Corporation: (i) at least 20 days' prior written notice of the date on which the books of the Corporation shall close or a record shall be taken for such dividend, distribution or subscription rights or for determining rights to vote in respect of any such Acquisition, Asset Transfer, reorganization or reclassification of the capital stock of the Corporation; and (ii) in the case of any such Acquisition, Asset Transfer, reorganization or reclassification of the capital stock of the Corporation, at least 20 days' prior written notice of the date when the same shall take place; provided, however, that such notice may be waived in writing by holders of at least 51% of the outstanding shares of Preferred Stock. Such notice in accordance with the foregoing clause (i) shall also specify, in the case of any such dividend, distribution or subscription rights, the date on which the holders of Common Stock shall be entitled thereto, and such notice in accordance with the foregoing clause (ii) shall also specify the date on which the holders of Common Stock shall be entitled to exchange their Common Stock for securities or other property deliverable upon such Acquisition, Asset Transfer, reorganization or reclassification of the capital stock of the Corporation, as the case may be.

(q) Definition of Common Stock. As used in this Section 5, the term "Common Stock" shall mean and include the Corporation's authorized Common Stock, par value \$.001 per share, as constituted on the Effective Date, and shall also include any capital stock of any class of the Corporation thereafter authorized which shall not be limited to a fixed sum or percentage in respect of the rights of the holders thereof to participate in dividends or in the distribution of assets upon the voluntary or involuntary liquidation, dissolution or winding up of the Corporation; provided that the shares of Common Stock receivable upon conversion of shares of Preferred Stock shall include only shares designated as Common Stock of the Corporation on the

Effective Date, or in case of any reorganization or reclassification of the outstanding shares thereof, the stock, securities or assets provided for in Section 5(h).

**Section 6. Restrictions.** Except where the vote or written consent of the holders of a greater number of shares of the Corporation is required by law or by this Restated Certificate, and in addition to any other vote required by law or this Restated Certificate, without the approval of the holders of at least 51% of the aggregate of the then outstanding shares of Preferred Stock, voting together as a single class with each share of Preferred Stock entitled to one vote per share, given in writing or by vote at a meeting, consenting or voting, as the case may be (it being understood that the requisite approval of the holders of either Series A Preferred Stock, Series A-1 Preferred Stock, Series A-2 Preferred Stock, Series A-3 Preferred Stock or Series A-4 Preferred Stock shall not be required if less than 10% of the originally issued shares of Series A Preferred Stock, Series A-1 Preferred Stock, Series A-2 Preferred Stock, Series A-3 Preferred Stock or Series A-4 Preferred Stock, respectively, are outstanding at the time the Corporation proposes to take such restricted action), the Corporation will not:

(a) consent to or otherwise effect any liquidation, dissolution or winding up of the Corporation or any Acquisition or Asset Transfer or capital reorganization or reclassification of the capital stock of the Corporation;

(b) authorize, designate, issue and/or reclassify any equity security or security convertible into any shares of any class or series of stock with preferences or priority over, or on a parity with Series A Preferred Stock, Series A-1 Preferred Stock, Series A-2 Preferred Stock, Series A-3 Preferred Stock or Series A-4 Preferred Stock as to the right to receive dividends, voting, or amounts distributable upon liquidation, dissolution or winding up of the Corporation or increase or decrease the authorized number of shares of Preferred Stock or any series thereof;

(c) declare, purchase or set aside any sums for the purchase of, or pay any dividend or make any distribution on, any shares of capital stock of the Corporation, except for dividends or other distributions payable on: (1) Series A Preferred Stock (to the extent necessary to satisfy the provisions of this Restated Certificate); (2) Series A-1 Preferred Stock (to the extent necessary to satisfy the provisions of this Restated Certificate); (3) Series A-2 Preferred Stock (to the extent necessary to satisfy the provisions of this Restated Certificate); (4) Series A-3 Preferred Stock (to the extent necessary to satisfy the provisions of this Restated Certificate), and (5) Series A-4 Preferred Stock (to the extent necessary to satisfy the provisions of this Restated Certificate) and except for the purchase of shares of Common Stock from former employees or consultants of the Corporation who acquired such shares directly from the Corporation, if each such purchase is made pursuant to contractual rights held by the Corporation relating to the termination of employment of such former employee or termination of the consulting relationship with such consultant and the purchase price does not exceed the original issue price paid by such former employee or consultant of the Corporation for such shares;

(d) increase or decrease the number of members on the Corporation's Board of Directors to a number greater than seven;

(e) redeem or otherwise acquire any shares of any series of preferred stock, except as provided in that certain Investor Rights Agreement dated April 15, 2005 by and between the

Corporation, certain holders of Common Stock and the holders of Preferred Stock, as such may be amended from time to time; or

(f) amend, alter or repeal any provision of the Certificate of Incorporation or Bylaws of the Corporation.

**Section 7. Redemption.** Preferred Stock is redeemable pursuant to the terms of that certain Investor Rights Agreement dated April 15, 2005 by and between the Corporation, certain holders of Common Stock and the holders of Preferred Stock, as such may be amended from time to time.

#### **ARTICLE 5 – AMENDMENTS TO BYLAWS**

Subject to the provisions set forth herein, the Board of Directors of this Corporation is expressly authorized to adopt, amend or repeal the Bylaws of this Corporation, or any provision thereof.

#### **ARTICLE 6 – LIMITATION ON DIRECTOR LIABILITY**

To the fullest extent permitted by law, no director shall be personally liable to this Corporation or any of its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability: (a) for any breach of the director's duty of loyalty to this Corporation or its stockholders; (b) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; (c) pursuant to Section 174 of Title 8 of the Delaware General Corporation Law; or (d) for any transaction from which the 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.

#### **ARTICLE 7 – INDEMNIFICATION**

This Corporation shall, to the fullest extent permitted by the Delaware General Corporation Law, as amended from time to time, indemnify its officers, directors, employees and agents.

#### **ARTICLE 8 – AMENDMENT TO CERTIFICATE OF INCORPORATION**

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

IN WITNESS WHEREOF, ALN Medical Management, Inc. has caused this certificate to be signed as of October 23, 2007.

  
\_\_\_\_\_  
Michael Finch, Chief Financial Officer

(00338083.1)21