

SECURITIES AND EXCHANGE COMMISSION

FORM 8-A12G/A

Form for registration of a class of securities pursuant to section 12(g) [amend]

Filing Date: **2001-08-03**
SEC Accession No. **0000950153-01-500823**

([HTML Version](#) on [secdatabase.com](#))

FILER

BIGMAR INC

CIK: **1012466** | IRS No.: **311445779** | State of Incorporation: **DE** | Fiscal Year End: **1231**
Type: **8-A12G/A** | Act: **34** | File No.: **001-14416** | Film No.: **1697129**
SIC: **2834** Pharmaceutical preparations

Mailing Address
6660 DOUBLETREE AVE 20
COLUMBUS OH 43229

Business Address
9711 SPORTSMAN CLUB RD
JOHNSTOWN OH 43031-9141
7409665800

[Table of Contents](#)

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-A/A

FOR REGISTRATION OF CERTAIN CLASSES OF SECURITIES
PURSUANT TO SECTION 12(b) OR 12(g) OF THE
SECURITIES EXCHANGE ACT OF 1934

BIGMAR, INC.

(Exact name of issuer as specified in its charter)

DELAWARE

31-1445779

(State of incorporation or organization)

(I.R.S. Employer Identification No.)

9711 Sportsman Club Road, Johnstown, Ohio

43031

(Address of principal executive offices)

(Zip Code)

If this form relates to the registration of a class of securities pursuant to Section 12(b) of the Exchange Act and is effective pursuant to General Instruction A.(c), check the following box.

If this form relates to the registration of a class of securities pursuant to Section 12(g) of the Exchange Act and is effective pursuant to General Instruction A.(d), check the following box.

Securities to be registered pursuant to Section 12(g) of the Act:

Common Stock, par value \$0.001 per share.

(Title of class)

TABLE OF CONTENTS

[Item 1. Description of Registrant' s Securities to be Registered.](#)

[Item 2. Exhibits.](#)

[SIGNATURE](#)

[Exhibit Index](#)

[EX-3.1\(b\)](#)

[EX-3.1\(c\)](#)

[EX-3.1\(d\)](#)

[Table of Contents](#)

Item 1. Description of Registrant's Securities to be Registered.

DESCRIPTION OF CAPITAL STOCK

The authorized capital stock of the Company consists of 35,000,000 shares, of which 30,000,000 shares are Common Stock, par value \$.001 per share, and 5,000,000 are Preferred Stock, par value \$.001 per share. As of July 30, 2001, there were 10,168,973 shares of Common Stock outstanding and 7,000 shares of Series B Convertible Preferred Stock outstanding. The Common Stock of the Company is quoted on the OTC Bulletin Board under the trading symbol "BGMR.OB."

The following description of the capital stock of the Company and certain provisions of the Company's Amended and Restated Certificate of Incorporation and By-Laws is a summary and is qualified in its entirety by the provisions of the Amended and Restated Certificate of Incorporation and By-Laws, which have been filed as exhibits.

COMMON STOCK

The issued and outstanding shares of Common Stock are validly issued, fully paid and nonassessable. Subject to the rights of the holders of the Preferred Stock, the holders of outstanding shares of Common Stock are entitled to receive dividends out of assets legally available therefor at such times and in such amounts as the Board of Directors may from time to time determine. The shares of Common Stock are neither redeemable nor convertible, and the holders thereof have no preemptive or subscription rights to purchase any securities of the Company. Upon liquidation, dissolution or winding up of the Company, the holders of Common Stock are entitled to receive, pro rata, the assets of the Company which are legally available for distribution, after payment of all debts and other liabilities and subject to the prior rights of any holders of Preferred Stock then outstanding. Each outstanding share of Common Stock is entitled to one vote on all matters submitted to a vote of stockholders. There is no cumulative voting for the election of directors.

PREFERRED STOCK

The Company's Restated Certificate authorizes the Board of Directors to issue the Preferred Stock in classes or series and to establish the designations, preferences, qualifications, limitations and restrictions of any class or series with respect to the rate and nature of dividends, the price and terms and conditions on which shares may be redeemed, the terms and conditions for conversion or exchange into any other class or series of such stock, voting rights and other terms. The Company may, without approval of the holders of Common Stock, issue Preferred Stock which has voting, dividend or liquidation rights superior to those of the Common Stock and which may adversely affect the rights of holders of Common Stock. The issuance of Preferred Stock, while providing flexibility in connection with possible acquisitions and other corporate purposes, could, among other things, adversely affect the voting power of the holders of Common Stock and could have the effect of delaying, deferring or preventing a change in control of the Company.

[Table of Contents](#)

Series A

One Million (1,000,000) shares of the Preferred Stock are designated "Series A Convertible Preferred Stock" (the "Series A Preferred Stock"). When and as declared by the Company's Board of Directors, to the extent permitted under the General Corporation Law of the State of Delaware and before any cash dividends shall be paid upon or set aside for the Common Stock, the Company shall pay dividends on each outstanding share of Series A Preferred Stock in an amount not less than the amount of cash dividends payable with respect to the number of shares of Common Stock then issuable upon conversion of such share of Series A Preferred Stock. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Company, the holders of shares of Series A Preferred Stock then outstanding shall be entitled to be paid out of the assets of the Company available for distribution to its stockholders, after and subject to the payment in full of all amounts required to be distributed to the holders of any other class or series of stock of the Company ranking on liquidation prior and in preference to the Series A Preferred Stock, but before any payment shall be made to the holders of Common Stock or any other class or series of stock ranking on liquidation junior to the Series A Preferred Stock by reason of their ownership thereof, an amount equal to \$2.5625 per share (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization affecting such shares), plus any declared but unpaid dividends.

The Series A Convertible Preferred Stock is convertible to Common Stock on a one-to-one basis, with such conversion rate to adjust to reflect dilutive issuances of equity securities by the Company and also to adjust for stock splits, dividends, combinations and similar events. The Series A Preferred Stock votes together with the Common Stock and outstanding shares of Preferred Stock carry a vote equal to five times the number of shares of Common Stock into which the Series A Preferred Stock is then converted.

Series B

Ten thousand (10,000) shares of the Preferred Stock are designated "Series B (Non-participating) Preferred Stock" (the "Series B Preferred Stock"). The holders of the Series B Preferred Stock are entitled to receive dividends at the rate of \$70.00 per share (as adjusted for any stock dividends, combinations or splits with respect to such shares) per annum, payable out of funds legally available therefor. Such dividends shall be cumulative and shall be due and payable annually in arrears. No dividends shall be paid on any Common Stock or any other Preferred Stock of the Company during any fiscal year of the Company until dividends in the total amount of \$70.00 per share (as adjusted for any stock dividends, combinations or splits with respect to such shares) on the Series B Preferred Stock shall be paid or declared and set apart during the fiscal year and any prior years which dividends accumulated but remain unpaid. In the event of any liquidation, dissolution or winding up of the Company, whether voluntary or involuntary, the holders of the Series B Preferred Stock shall be entitled to receive, prior and in preference to any distribution of any of the assets or surplus funds of the Company to the holders of the Common Stock and on parity with the holders of Series A Preferred Stock, the amount of \$1,000.00 per share (as adjusted for any stock dividends, combinations or splits with respect to such shares), plus all accrued but unpaid dividends on such share for each share of Series B Preferred Stock then held by them.

[Table of Contents](#)

The Company may on or after January 1, 2003 redeem, from any source of funds legally available, the Series B Preferred Stock. The holders Series B Preferred Shares shall have no voting rights as holders of Series B Preferred Shares until the shares are converted to shares of Common Stock, at which time the holders shall have the voting rights of holders of Common Stock.

Each share of Series B Preferred Stock shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share but prior to December 31, 2005, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing 1,000 by the Series B Conversion Price applicable to such share, determined as hereinafter provided, in effect on the date the certificate is surrendered for conversion. The price at which shares of Common Stock shall be deliverable upon conversion of shares of the Series B Preferred Stock (the "Series B Conversion Price") shall initially be \$2.00 per share of Common Stock until and through December 31, 2002. Between January 1, 2003 through December 31, 2005, the Series B Conversion Price shall be 90 percent of the 20 tracking day average closing price of the Common Stock prior to the date the certificate is surrendered for conversion. If the Common Stock is not listed on the Nasdaq Stock Market or the OTC Bulletin Board, the price shall be determined by a third party appraisal. At no time will the Series B Conversion Price be less than \$1.50 per share of Common Stock. Each share of Series B Preferred Stock shall automatically be converted into shares of Common Stock at the then Series B Conversion Price on December 31, 2005.

OPTIONS AND WARRANTS

Effective November 4, 1997, the Board of Directors approved an option plan, which was approved by Shareholders on June 30, 1998, that provides for the grant of incentive stock options and nonqualified stock options to directors, officers, employees, agents and consultants of the Company to purchase up to 600,000 shares of the Company's Common Stock, with exercise terms not to exceed ten years. In addition, the Company adopted a director option plan providing for awards of up to 50,000 shares of Common Stock to directors who are not otherwise affiliated with the Company. Stock options have various vesting terms and are granted with an exercise price equal to the Company's stock price at the date of grant. As of July 30, 2001, options for 580,000 shares of Common Stock were available for future grant under the 1997 Plan and 50,000 shares of Common Stock were available for future grant under the director option plan. As of July 30, 2001, the number of options exercisable was 320,000, and the weighted-average exercise price of those options was \$5.26.

As of July 30, 2001, there were warrants outstanding to purchase 2,095,000 shares of the Company's Common Stock and 1,000,000 shares of the Company's Series A Preferred Stock.

DELAWARE ANTI-TAKEOVER LAW

The Company is subject to Section 203 ("Section 203") of the Delaware General Corporation Law which, subject to certain exceptions, prohibits a Delaware corporation from engaging in any "business combination" with any "interested stockholder" for a period of three

[Table of Contents](#)

years following the date that such stockholder became an interested stockholder, unless: (i) prior to such date, the Board of Directors of the corporation, approved either the business combination or the transaction which resulted in the stockholder becoming an interested stockholder; (ii) upon consummation of the transaction which resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced, excluding for purposes of determining the number of shares outstanding those shares owned by persons who are directors and also officers and by employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or (iii) on or subsequent to such date, the business combination is approved by the Board of Directors and authorized at an annual or special meeting of stockholders, and not by written consent, by the affirmative vote of at least 66 2/3% of the outstanding voting stock which is not owned by the interested stockholder. Under Section 203, the restrictions described above also do not apply to certain business combinations proposed by an interested stockholder following the announcement or notification of one of certain extraordinary transactions involving the corporation and a person who had not been an interested stockholder during the previous three years or who became an interested stockholder with the approval of a majority of the corporation's directors and which transaction is approved or not opposed by the majority of the board of directors then in office.

Section 203 generally defines a business combination to include: (i) any merger or consolidation involving the corporation and the interested stockholders; (ii) any sale, transfer, pledge or other disposition of 10% or more of the assets of the corporation to the interested stockholder; (iii) subject to certain exceptions, any transaction which results in the issuance or transfer by the corporation of any stock of the corporation to the interested stockholder; (iv) any transaction involving the corporation which has the effect of increasing the proportionate share of the stock of any class or series of the corporation beneficially owned by the interested stockholder; or (v) the receipt by the interested stockholder of the benefit of any loans, advances, guarantees, pledges or other financial benefits provided by or through the corporation. In general, Section 203 defines an interested stockholders as any entity or person beneficially owning 15% or more of the outstanding voting stock of the corporation and any entity or person affiliated with or controlling or controlled by such entity or person.

REGISTRATION RIGHTS

The Company is currently obligated to register for resale the Common Stock into which the 7,000 shares of Series B Convertible Stock are convertible in addition to 1,000,000 shares of Common Stock underlying a warrant.

American Stock Transfer & Trust Company, 59 Maiden Lane, Plaza Level, New York, NY 10038, serves as the Company' s transfer agent for the Common Stock.

[Table of Contents](#)

Item 2. Exhibits.

- 3.1 Restated and Amended Certificate of Incorporation of Registrant. Incorporated by reference to Exhibit of the same number of the Registrant' s Amendment No. 2 to Registration Statement on Form S-1 filed with the Securities and Exchange Commission on June 17, 1996 (Registration No. 333-3830).
- 3.1(a) Certificate of Correction to Restated and Amended Certificate of Incorporation of the Registrant. Incorporated by reference to Exhibit of the same number of the Registrant' s Amendment No. 1 to the Registration Statement on Form S-1 filed with the Securities and Exchange Commission on May 31, 1996 (Registration No. 333-3830).
- 3.1(b) Certificate of Designation, Preferences and Rights of Series A Convertible Preferred Stock of Registrant. **Filed herewith.**
- 3.1(c) Certificate of Amendment of Amended and Restated Certificate of Incorporation of Registrant. **Filed herewith.**
- 3.1(d) Certificate of Correction of the Amended and Restated Certificate of Incorporation of Registrant. **Filed herewith.**
- 3.1(e) Certificate of Amendment of the Amended and Restated Certificate of Incorporation of the Registrant. **Filed herewith.**
- 3.1(f) Certificate of Designation, Preferences and Rights of Series B Preferred Stock of Registrant. **Filed herewith.**
- 3.2 Restated By-laws of Registrant. Incorporated by reference to Exhibit of the same number of the Registrant' s Registration Statement on Form S-1 filed with the Securities and Exchange Commission on April 19, 1996 (Registration No. 333-3830).
- 3.2(a) Amendment to Restated By-laws of Registrant. Incorporated by reference to Exhibit of the same number of the Registrant' s Amendment No. 2 to Registration Statement on Form S-1 filed with the Securities and Exchange Commission on June 17, 1996 (Registration No. 333-3830).
- 4.1 Specimen Certificate of Registrant' s Common Stock. Incorporated by reference to Exhibit of the same number of the Registrant' s Amendment No. 2 to the Registration Statement on

[Table of Contents](#)

SIGNATURE

Pursuant to the requirements of Section 12 of the Securities Exchange Act of 1934, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereto duly authorized.

BIGMAR, INC.

By: /s/ John G. Tramontana
John G. Tramontana
Chairman of the Board and
Chief Executive Officer

Dated: August 3, 2001

[Table of Contents](#)

Exhibit Index

Exhibit Number	Description
3.1	Restated and Amended Certificate of Incorporation of Registrant. Incorporated by reference to Exhibit of the same number of the Registrant' s Amendment No. 2 to Registration Statement on Form S-1 filed with the Securities and Exchange Commission on June 17, 1996 (Registration No. 333-3830).
3.1(a)	Certificate of Correction to Restated and Amended Certificate of Incorporation of the Registrant. Incorporated by reference to Exhibit of the same number of the Registrant' s Amendment No. 1 to the Registration Statement on Form S-1 filed with the Securities and Exchange Commission on May 31, 1996 (Registration No. 333-3830).
3.1(b)	Certificate of Designation, Preferences and Rights of Series A Convertible Preferred Stock of Registrant. Filed herewith.

- 3.1(c) Certificate of Amendment of Amended and Restated Certificate of Incorporation of Registrant. **Filed herewith.**
- 3.1(d) Certificate of Correction of the Amended and Restated Certificate of Incorporation of Registrant. **Filed herewith.**
- 3.1(e) Certificate of Amendment of the Amended and Restated Certificate of Incorporation of the Registrant. **Filed herewith.**
- 3.1(f) Certificate of Designation, Preferences and Rights of Series B Preferred Stock of Registrant. **Filed herewith.**
- 3.2 Restated By-laws of Registrant. Incorporated by reference to Exhibit of the same number of the Registrant' s Registration Statement on Form S-1 filed with the Securities and Exchange Commission on April 19, 1996 (Registration No. 333-3830).
- 3.2(a) Amendment to Restated By-laws of Registrant. Incorporated by reference to Exhibit of the same number of the Registrant' s Amendment No. 2 to Registration Statement on Form S-1 filed with the Securities and Exchange Commission on June 17, 1996 (Registration No. 333-3830).
- 4.1 Specimen Certificate of Registrant' s Common Stock. Incorporated by reference to Exhibit of the same number of the Registrant' s Amendment No. 2 to the Registration Statement on Form S-1 filed with the Securities and Exchange Commission on June 17, 1996 (Registration No. 333-3830).

CERTIFICATE OF DESIGNATION, PREFERENCES AND RIGHTS
OF
SERIES A CONVERTIBLE PREFERRED STOCK
OF BIGMAR, INC.

Pursuant to Section 151 of the Corporation Law of
the State of Delaware

We, the President and Secretary of Bigmar, Inc. (hereinafter called the "Corporation"), a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware, in accordance with the provisions of Section 103 thereof, do hereby certify as follows:

Pursuant to the authority conferred upon the Board of Directors of the Corporation by the Restated and Amended Certificate of Incorporation of the Corporation filed with the Secretary of State of the State of Delaware on April 16, 1996, the Board of Directors of the Corporation on May 28, 1998, adopted the following resolution creating a series of Preferred Stock designated as Series A Convertible Preferred Stock:

RESOLVED: That a series of Preferred Stock of the Corporation be and it hereby is created, and the designations, powers, preferences and rights of the shares of such series, and the qualification, limitations or restrictions thereof are as follows:

Series A Designation and Authorized Amount.

One Million (1,000,000) shares of the authorized and unissued Preferred Stock of the Corporation are hereby designated "Series A Convertible Preferred Stock" (the "Series A Preferred Stock") with the rights, preferences, powers, privileges and restrictions, qualifications and limitations set forth below.

1. Dividends.

(a) When and as declared by the Corporation's Board of Directors, to the extent permitted under the General Corporation Law of the State of Delaware and before any cash dividends shall be paid upon or set aside for the Common Stock, the Corporation shall pay dividends on each outstanding share of Series A Preferred Stock in an amount not less than the amount of cash dividends payable with respect to the number of shares of Common Stock then issuable upon conversion of such share of Series A Preferred Stock.

(b) Any dividends paid on the Series A Preferred Stock shall be

distributed ratably among the holders thereof based upon the aggregate number of shares held by each such holder.

2

2. Liquidation, Dissolution or Winding Up.

(a) In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the holders of shares of Series A Preferred Stock then outstanding shall be entitled to be paid out of the assets of the Corporation available for distribution to its stockholders, after and subject to the payment in full of all amounts required to be distributed to the holders of any other class or series of stock of the Corporation ranking on liquidation prior and in preference to the Series A Preferred Stock (collectively referred to as "Senior Preferred Stock"), but before any payment shall be made to the holders of Common Stock or any other class or series of stock ranking on liquidation junior to the Series A Preferred Stock (such Common Stock and other stock being collectively referred to as "Junior Stock") by reason of their ownership thereof, an amount equal to \$2.5625 per share (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization affecting such shares), plus any declared but unpaid dividends with respect thereof. If upon any such liquidation, dissolution or winding up of the Corporation the remaining assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of shares of Series A Preferred Stock the full amount to which they shall be entitled, the holders of shares of Series A Preferred Stock and any class or series of stock ranking on liquidation on a parity with the Series A Preferred Stock shall share ratably in any distribution of the remaining assets and funds of the Corporation in proportion to the respective amounts which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full.

(b) After the payment of all preferential amounts required to be paid to the holders of Senior Preferred Stock, Series A Preferred Stock and any other class or series of stock of the Corporation ranking on liquidation on a parity with the Series A Preferred Stock, upon the dissolution, liquidation or winding up of the Corporation, the holders of shares of Junior Stock then outstanding shall be entitled to receive, on a pro-rata basis (based, in the case of any convertible securities, on the number of shares of Common Stock into which such convertible securities are then convertible), the remaining funds and assets of the Corporation available for distribution to its stockholders.

(c) The merger or consolidation of the Corporation into or with another corporation, or the sale of all or substantially all the assets of the Corporation, 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 a majority of the shares of Series A Preferred Stock then outstanding and issuable upon exercise of the exercisable warrants for Series A Preferred Stock elect to have such events not deemed to be a liquidation, dissolution or winding up of the Corporation by giving written notice thereof to the Corporation at least 15 days before the effective date of such event. If such notice is given, tile

provisions of Subsection 4(i) below shall apply. The amount deemed distributed to the holders of Series A Preferred Stock upon any such merger or consolidation shall be the cash or the value of the property, rights or securities distributed to such holders by the acquiring person, firm or other entity. The value of such property, rights or other securities shall be determined in good faith by the Board of Directors of the Corporation.

3

3. Voting.

(a) Each holder of outstanding shares of Series A Preferred Stock shall be entitled to the number of votes equal to five (5) times the number of whole shares of Common Stock into which the shares of Series A Preferred Stock held by such holder are convertible (as adjusted from time to time pursuant to Section 4 hereof), at each meeting of stockholders of the Corporation (and written actions of stockholders in lieu of meetings) with respect to any and all matters presented to the stockholders of the Corporation for their action or consideration. Except as provided by law or by the provisions establishing any other series of Preferred Stock, holders of Series A Preferred Stock shall vote together with the holders, of Common Stock as a single class.

(b) Except as expressly provided herein or as required by law, so long as any shares of the Series A Preferred Stock remain outstanding, the Corporation shall not without the approval by vote or written consent by the holders of at least a majority of the shares of the Series A Preferred Stock then outstanding and issuable upon exercise of then exercisable warrants for Series A Preferred Stock, each share of Series A Preferred Stock to be entitled to one vote in each instance: (i) alter or change the rights, preferences or privileges of the Series A Preferred Stock, (ii) create any new class or series of stock having a liquidation or dividend preference over or on parity with the Series A Preferred Stock, (iii) merge, consolidate, or reorganize the Corporation, or sell all or substantially all of its assets, (vi) pay dividends (other than in shares of Common Stock) on the Common Stock or (vii) repurchase or otherwise acquire shares of its capital stock other than pursuant to the provisions of the Certificate of Incorporation or restricted stock agreements entered into at the time of the sale of such shares.

4. Optional Conversion. The holders of the Series A Preferred Stock shall have conversion rights as follows (the "Conversion Rights"):

(a) Right to Convert. Each share of Series A Preferred Stock shall be convertible, at the option of the holder thereof, at any time and from time to time, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing \$2.5625 by the Conversion Price (as defined below) in effect at the time of conversion, The conversion price at which shares of Common Stock shall be deliverable upon conversion of Series A Preferred Stock without the payment of additional consideration by the holder thereof (the "Conversion Price") shall initially be \$2.5625. Such initial Conversion Price, and the rate at which shares of Series A Preferred Stock may be converted into shares of Common Stock, shall be subject to adjustment as provided below.

In the event of a liquidation, dissolution or winding up of the Corporation, the Conversion Rights shall terminate at the close of business on the first full day preceding the date fixed for the payment of any amounts distributable on liquidation, dissolution or winding up to the holders of Series A Preferred Stock. The Corporation shall give the holders of Series A Preferred Stock 30 days' prior notice of the date fixed for such payment.

(b) Fractional Shares. No fractional shares of Common Stock shall be issued upon conversion of the Series A Preferred Stock. In lieu of any fractional shares to which the

4

holder would otherwise be entitled, the Corporation shall pay cash equal to such fraction multiplied by the then applicable Conversion Price.

(c) Mechanics of Conversion.

(i) In order for a holder of Series A Preferred Stock to convert shares of Series A Preferred Stock into shares of Common Stock, such holder shall surrender the certificate or certificates for such shares of Series A Preferred Stock, at the office of the transfer agent for the Series A 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 Series A 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. If required by the Corporation, certificates surrendered for conversion shall be endorsed or accompanied by a written instrument or instruments of transfer, in form 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 ("Conversion Date"). The Corporation shall, as soon as practicable after the Conversion Date, issue and deliver at such office to such holder of Series A 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.

(ii) The Corporation shall at all times when the Series A Preferred Stock shall be outstanding, reserve and keep available out of its authorized but unissued stock, for the purpose of effecting the conversion of the Series A 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 Series A Preferred Stock. Before taking any action which would cause an adjustment reducing the Conversion Price below the then par value of the shares of Common Stock issuable upon conversion of the Series A Preferred Stock, the Corporation will take any corporate action which 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.

(iii) All shares of Series A Preferred Stock which shall have been 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 and to vote, shall immediately cease and terminate on the Conversion Date, except only the right of the holders thereof to receive shares of Common Stock in exchange therefor. Any shares of Series A Preferred Stock so converted shall be retired and canceled and shall not be reissued, and the Corporation may from time to time take such appropriate action as may be necessary to reduce the authorized Series A Preferred Stock accordingly.

(d) Adjustments to Conversion Price for Diluting Issues:

(i) Special Definitions. For purposes of this Subsection 4(d), the following definitions shall apply:

5

(A) "Option" shall mean rights, options or warrants to subscribe for, purchase or otherwise acquire Common Stock or Convertible Securities, excluding options granted to employees, consultants or directors of the Corporation to acquire shares of Common Stock pursuant to plans adopted by the Board of Directors of the Corporation.

(B) "Original Issue Date" shall mean the date on which a warrant to purchase shares of Series A Preferred Stock was first issued.

(C) "Convertible Securities" shall mean any evidences of indebtedness, shares or other securities directly or indirectly convertible into or exchangeable for Common Stock.

(D) "Additional Shares of Common Stock" shall mean all shares of Common Stock issued (or, pursuant to Subsection 4(d) (iii) below, 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 Series A Preferred Stock originally issued at a price of \$2.5625 per share;

(II) as a dividend or distribution on Series A Preferred Stock;

(III) upon exercise of options, warrants or convertible securities outstanding prior to the date of filing this Certificate of Designation;

(IV) by reason of a dividend or distribution covered by Subsection 4(f) hereof, a stock split or

subdivision of shares of Common Stock covered by Subsection 4(e) hereof, or by reason of a dividend, stock split, subdivision or other distribution on shares of Common Stock excluded from the definition of Additional Shares of Common Stock by the foregoing clauses (I) and (II), (III) or this clause (IV); or

(V) upon the exercise of options excluded from the definition of "Option" in Subsection 4(d)(i)(A).

(ii) No Adjustment of Conversion Price. No adjustment in the number of shares of Common Stock into which the Series A Preferred Stock is convertible shall be made, by adjustment in the applicable Conversion Price thereof: (a) unless the consideration per share (determined pursuant to Subsection 4(d)(v)) for an Additional Share of Common Stock issued or deemed to be issued by the Corporation is less than the applicable Conversion Price in effect on the date of, and immediately prior to, the issue of such Additional Shares, or (b) if prior to such issuance, the Corporation receives written notice from the holders of a majority of the shares of Series A Preferred Stock then outstanding and issuable upon exercise of then exercisable

6

warrants for Series A Preferred Stock agreeing that no such adjustment shall be made as the result of the issuance of Additional Shares of Common Stock.

(iii) 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 Additional Shares of Common Stock shall not be deemed to have been issued unless the consideration per share (determined pursuant to Subsection 4(d)(v) hereof) of such Additional Shares of Common Stock would be less than the applicable Conversion Price in effect on the date of and immediately prior to such issue, or such record date, as the case may be, and provided further that in any such case in which Additional Shares of Common Stock are deemed to be issued:

(A) No further adjustment in the Conversion Price 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;

(B) If such Options or Convertible Securities by

their terms provide, with the passage of time or otherwise, for any increase in the consideration payable to the Corporation, or decrease in the number of shares of Common Stock issuable, upon the exercise, conversion or exchange thereof, the Conversion Price 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 any such increase or decrease becoming effective, be recomputed to reflect such increase or decrease insofar as it affects such Options or the rights of conversion or exchange under such Convertible Securities;

(C) No readjustment pursuant to clause (B) above shall have the effect of increasing the Conversion Price to an amount which exceeds the lower of (i) the Conversion Price immediately prior to the adjustment effected upon the original issue of Options or Convertible Securities (or upon the occurrence of a record date with respect thereto) pursuant to the provisions hereof, 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 readjustment date;

7

(D) Upon the expiration or termination of any unexercised Option, the Conversion Price shall be readjusted to the Conversion Price which would have been in effect at the time of such expiration or termination had such Option never been issued (but including the recalculation of any intervening adjustments), and the Additional Shares of Common Stock deemed issued as the result of the original issue of such Option shall not be deemed issued for the purposes of any subsequent adjustment of the Conversion Price; and

(E) In the event of any change in the number of shares of Common Stock issuable upon the exercise, conversion or exchange of any Option or Convertible Security, including, but not limited to, a change resulting from the antidilution provisions thereof, the Conversion Price then in effect shall forthwith be readjusted to such Conversion Price as would have obtained had the adjustment which was made upon the issuance of such Option or Convertible Security (prior to such change) been made upon the basis of such change, but no further adjustment shall be made for the actual issuance of Common Stock upon the exercise or conversion of any such Option or Convertible Security.

(iv) Adjustment of Conversion Price Upon Issuance of Additional Shares of Common Stock.

In the event the Corporation shall at any time after the Original Issue Date issue Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Subsection 4(d)(iii), but excluding shares issued as a dividend or distribution as provided in Subsection 4(f) or upon a stock split or combination as provided in Subsection 4(e)), without consideration or for a consideration per share less than the applicable 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, to a price (calculated to the nearest cent) determined by multiplying such Conversion Price by a fraction, (A) the numerator of which shall be (1) the number of shares of Common Stock outstanding immediately prior to such issue plus (2) 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 (B) the denominator of which shall be the number of shares of Common Stock outstanding immediately prior to such issue plus the number of such Additional Shares of Common Stock so issued; provided that, for the purpose of this Subsection 4(d)(iv), all shares of Common Stock issuable upon conversion of shares of Series A Preferred Stock outstanding immediately prior to such issue shall be deemed to be outstanding, and immediately after any Additional Shares of Common Stock are deemed issued pursuant to Subsection 4(d)(iii) (other than shares excluded from the definition of "Additional Shares of Common Stock" by virtue of clause (IV) of Subsection 4(d)(i)(D)), such Additional Shares of Common Stock shall be deemed to be outstanding.

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 \$.10, but any such amount shall be carried forward and reduction with respect thereto made at the time of and together with any subsequent reduction which, carried forward, shall aggregate \$.10 or more.

8

(v) Determination of Consideration. For purposes of this Subsection 4(d), the consideration received by the Corporation for the issue of any Additional Shares of Common Stock shall be computed as follows:

(A) 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 determined in good faith by the Board of Directors, 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 determined in good faith by the Board of Directors.

(B) 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 Subsection 4(d)(iii), relating to Options and Convertible Securities, shall be

determined by dividing

(x) 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) 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

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

9

(e) Adjustment for Stock Splits and Combinations. If the Corporation shall at any time or from time to time after the Original Issue Date effect a subdivision of the outstanding Common Stock, the Conversion Price then in effect immediately before that subdivision shall be proportionately decreased. If the Corporation shall at any time or from time to time after the Original Issue Date combine the outstanding shares of Common Stock, the Conversion Price then in effect immediately before the combination shall be proportionately increased. Any adjustment under this paragraph shall become effective at the close of business on the date the subdivision or combination becomes effective.

(f) Adjustment for Certain 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 payable in additional shares of Common Stock, then and in each such event the Conversion Price then in effect shall be decreased as of the time of such issuance or, in the event such a record date shall have been fixed, as of the close of business on such record date, by multiplying the Conversion Price then in effect by a fraction:

(1) the numerator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date, and

(2) the denominator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of

business on such record date plus the number of shares of Common Stock issuable in payment of such dividend or distribution;

provided, however, if such record date shall have been fixed and such dividend is not fully paid or if such distribution is not fully made on the date fixed therefor, the Conversion Price shall be recomputed accordingly as of the close of business on such record date and thereafter the Conversion Price shall be adjusted pursuant to this paragraph as of the time of actual payment of such dividends or distributions.

(g) 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 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 Series A 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 the Series A Preferred Stock been converted into Common Stock on the date of such event and had thereafter, during the period from the date of such event to and including the conversion date, retained such securities receivable by them as aforesaid during such period giving application to all adjustments called for during such period, under this paragraph with respect to the rights of the holders of the Series A Preferred Stock.

10

(h) Adjustment for Reclassification, Exchange, or Substitution. If the Common Stock issuable upon the conversion of the Series A 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 Series A 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 Series A Preferred Stock might have been converted immediately prior to such reorganization, reclassification, or change, all subject to further adjustment as provided herein.

(i) Adjustment for Merger or Reorganization, etc. Subject to Section 2 of this Certificate of Designation, in case of any consolidation or merger of the Corporation with or into another corporation or the sale of all or substantially all of the assets of the Corporation to another corporation, each share of Series A Preferred Stock shall thereafter be convertible into the kind and amount of shares of stock or other securities or property to which a holder of the number of shares of Common Stock of the Corporation deliverable upon conversion of such Series A Preferred Stock would have been entitled upon such consolidation, merger or sale; and, in such case, appropriate adjustment (as

determined in good faith by the Board of Directors) shall be made in the application of the provisions in this Section 4 set forth with respect to the rights and interest thereafter of the holders of the Series A Preferred Stock, to the end that the provisions set forth in this Section 4 (including provisions with respect to changes in and other adjustments of the Conversion Price) shall thereafter be applicable, as nearly as reasonably may be, in relation to any shares of stock or other property thereafter deliverable upon the conversion of the Series A Preferred Stock.

(j) No Impairment. The Corporation will not, by amendment of its 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 Series A Preferred Stock against impairment.

(k) Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the Conversion Price 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 Series A Preferred Stock a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, upon the written request at any time of any holder of Series A Preferred Stock, furnish or cause to be furnished to such holder a similar certificate setting forth (i) such adjustments and readjustments, (ii) the Conversion Price then in effect, and (iii) the number of shares of Common Stock and the amount, if any, of other property which then would be received upon the conversion of Series A Preferred Stock.

11

(1) Notice of Record Date. In the event:

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

(ii) that the Corporation splits, subdivides or combines its outstanding shares of Common Stock;

(iii) of any reclassification of the Common Stock of the Corporation (other than a stock split, subdivision or combination of its outstanding shares of Common Stock or a stock dividend or stock distribution thereon), or of 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

(iv) of the involuntary or voluntary dissolution, liquidation 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 of the Series A Preferred Stock, and shall cause to be mailed to the holders of the Series A Preferred Stock at their last addresses as shown on the records of the Corporation or such transfer agent, at least ten days prior to the record date specified in (A) below or twenty days before the date specified in (8) below, a notice stating

(A) the record date of such dividend, distribution, stock split, 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, stock split, subdivision or combination are to be determined, or

(B) the date on which such reclassification, consolidation, merger, sale, 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, dissolution or winding up.

[The remainder of this page has been intentionally left blank.]

12

IN WITNESS WHEREOF, the Corporation has caused its corporate seal to be affixed hereto and this Certificate of Designation to be executed as of this 28 day of May, 1998.

BIGMAR, INC.

By: /s/ John G. Tramontana

Title: President

John G. Tramontana

By: /s/ Michael K. Medors

Title: Secretary

Michael K. Medors

CERTIFICATE OF AMENDMENT
OF
AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF BIGMAR, INC.

Bigmar, Inc., a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware,

DOES HEREBY CERTIFY:

1. That the name of the corporation (hereinafter called the "Corporation") is Bigmar, Inc.
2. That the Amended and Restated Certificate of Incorporation of the Corporation is hereby amended by striking out Article Fourth thereof and by substituting in lieu of said Article the following new Article:

FOURTH: The total number of shares of all classes of stock to which the Corporation shall have authority to issue is twenty-five million (25,000,000) consisting of the following classes: (i) twenty million (20,000,000) shares of common stock, par value \$.001; (ii) five million (5,000,000) shares of preferred stock, par value \$.001.
3. That the amendment herein certified was duly adopted in accordance with the provisions of section 242 of the General Incorporation Law of the State of Delaware.
4. That the effective time of the amendment herein certified shall be upon the filing date of this Certificate of Amendment.

IN WITNESS WHEREOF, the Corporation has caused this Certificate to be executed by John G. Tramontana, its President and Chief Executive Officer, this 5th day of June, 1998.

BIGMAR, INC.

By: /s/ John G. Tramontana

John G. Tramontana
President and CEO

ATTEST:

/s/ Michael K. Medors

Michael K. Medors
Secretary

CERTIFICATE OF CORRECTION OF
THE AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF
BIGMAR, INC.

It is hereby certified that:

1. The name of the corporation (hereinafter called the "Corporation") is Bigmar, Inc.
2. The Certificate of Amendment of the Corporation, which was filed by the Secretary of State of Delaware on August 12, 1998, is hereby corrected.
3. The inaccuracy to be corrected in said instrument is that paragraph 2 of the Certificate of Amendment suggests all of Article Fourth of the Amended and Restated Certificate of Incorporation was being replaced by the new language. The new language was intended only to replace the first paragraph of Article Fourth.
4. The portion of the instrument in corrected form is that the Amended and Restated Certificate of Incorporation of the Corporation is hereby amended by striking out in its entirety the first paragraph of Article Fourth and substituting the following new paragraph:

FOURTH: The total number of shares of all classes of stock to which the Corporation shall have authority to issue in twenty-five million (25,000,000) consisting of the following classes: (i) twenty million (20,000,000) shares of common stock, par value \$.001; (ii) five million (5,000,00) shares of preferred stock, par value \$.001.

All other paragraphs of Article Fourth shall remain unchanged.

Signed on October 27, 2000

/s/ John Tramontana

John Tramontana
President

Certificate of Amendment
to the
Amended and Restated
Certificate of Incorporation

Duly adopted pursuant to Sections 242 of the Delaware General Corporation Law:

Bigmar, Inc., a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware, does hereby certify as follows:

That at a meeting of the Board of Directors a resolution was duly adopted setting forth a proposed amendment of the Certificate of Incorporation of said corporation, declaring said amendment to be advisable and calling a meeting of the stockholders of said corporation for consideration thereof. Thereafter, pursuant to Section 242 of the General Corporation law of the state of Delaware, the necessary number of shares as required under the Certificate of Incorporation were voted in favor of the amendment by the shareholders of the corporation. The resolution setting forth the proposed amendment is as follows:

RESOLVED, that the Amended and Restated Certificate of Incorporation of this corporation be amended by changing the first paragraph of the Article thereof titled "Fourth" so that, as amended said first paragraph of the Article shall be and read as follows:

"FOURTH: The total number of shares of all classes of stock which the Corporation shall have authority to issue is thirty-five million (35,000,000), consisting of the following classes: (i) thirty million (30,000,000) shares of common stock, par value \$.001; and (ii) five million (5,000,000) shares of preferred stock, \$.001 par value.

In witness whereof, the undersigned has executed this Amendment on the 27 day of October.

By: /s/ John Tramontana

John Tramontana, Chief Executive Officer

CERTIFICATE OF DESIGNATION, PREFERENCES AND RIGHTS
OF
SERIES B PREFERRED STOCK
OF
BIGMAR, INC.

Pursuant to Section 151 of the
General Corporation Law of
the State of Delaware

The Chief Executive Officer of Bigmar, Inc. (hereinafter called the "Corporation"), a corporation organized and existing under the General Corporation Law of the State of Delaware, in accordance with the provisions of Section 103, does hereby certify as follows:

Pursuant to the authority conferred upon the Board of Directors of the Corporation by the Restated and Amended Certificate of Incorporation of the Corporation, the Board of Directors of the Corporation on December 21, 2000, adopted the following resolution creating a series of Preferred Stock designated as Series B Preferred Stock:

"WHEREAS, the Certificate of Incorporation of the Corporation, as amended, provides for a class of shares known as the Preferred Stock, issuable from time to time in one or more series;

WHEREAS, the Board of Directors of the Corporation is authorized, in the Certificate of Incorporation, to determine the rights, preferences, privileges and restrictions granted to or imposed upon each wholly unissued series of the Preferred Stock, to fix the number of shares constituting each such series, and to determine the designation thereof; and

WHEREAS, the Board of Directors of the Corporation desires to designate a series of the Preferred Stock as "Series B Preferred Stock" and to designate the number of shares constituting such series and to fix the rights, preferences, privileges and restrictions of such series.

BE IT RESOLVED, that the Board of Directors of the Corporation hereby designates such new series of the Preferred Stock and the number of shares constituting such series and fixes the rights, preferences, privileges and restrictions relating to such series as follows:

2

1. Series B Designation and Authorized Amount.

Ten Thousand (10,000) shares of the authorized and unissued Preferred

Stock of the Corporation are hereby designated "Series B (Non-participating) Preferred Stock" (the "Series B Preferred Stock") with the rights, preferences, powers, privileges and restrictions, qualifications and limitations set forth below.

2. Dividends.

(a) Cumulative Dividends. The holders of the Series B Preferred Stock shall be entitled to receive dividends at the rate of \$70.00 per share (as adjusted for any stock dividends, combinations or splits with respect to such shares) per annum, payable out of funds legally available therefor. Such dividends shall be cumulative and shall be due and payable annually in arrears.

(b) Preference. No dividends shall be paid on any Common Stock or any other Preferred Stock of the Corporation during any fiscal year of the Corporation until dividends in the total amount of \$70.00 per share (as adjusted for any stock dividends, combinations or splits with respect to such shares) on the Series B Preferred Stock shall be paid or declared and set apart during the fiscal year and any prior years which dividends accumulated but remain unpaid.

3. Liquidation.

(a) Liquidation Preference. In the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, the holders of the Series B Preferred Stock shall be entitled to receive, prior and in preference to any distribution of any of the assets or surplus funds of the Corporation to the holders of the Common Stock and on parity with the holders of Series A Preferred Stock, the amount of \$1,000.00 per share (as adjusted for any stock dividends, combinations or splits with respect to such shares), plus all accrued but unpaid dividends on such share for each share of Series B Preferred Stock then held by them. If upon the occurrence of such event, the assets and funds thus distributed among the holders of the Series B Preferred Stock is insufficient to permit the payment to such holders of the full preferential amount, then the entire assets and funds of the Corporation legally available for distribution shall be distributed ratably among the holders of the Series B Preferred Stock in proportion to the preferential amount of such holder is otherwise entitled to receive.

(b) Merger or Sale of All Assets Deemed a Liquidation. For purposes of this Section 3, (i) an acquisition of the Corporation by means of merger or other form of corporate reorganization in which all of the outstanding shares of the Corporation are exchanged for securities or other consideration issued, or caused to be issued, by the acquiring corporation or its subsidiary (other than a mere reincorporation transaction) or (ii) a sale of all or substantially all of the assets of the Corporation, shall be treated as a liquidation, dissolution or winding up of the Corporation and shall entitle the holders of Series B Preferred Stock to receive at the closing, in cash, securities or other property as specified in a liquidation.

(c) Non Cash Liquidation. Whenever the distribution provided for in

this Section 3 is paid in securities or property other than cash, the value of such distribution shall be the fair market value of such securities or other property as determined in good faith by the Board of Directors.

4. Redemption.

(a) Company's Optional Redemption. This Corporation may on or after January 1, 2003 redeem, from any source of funds legally available, the Series B Preferred Stock. The Corporation shall effect such redemptions by giving Notice (defined in Section 4(b)) to the holders of Series B Preferred Stock and paying in cash in exchange for the shares of Series B Preferred Stock to be redeemed a sum equal to 1,000 times the then Series B Conversion Price per share described in Section 6 (as adjusted for any stock dividends, combinations or splits with respect to such shares) on the date of the Notice plus all accumulated but unpaid dividends on such shares. The redemption shall be for all of the Series B Preferred Stock outstanding as of the Redemption Date, as described in Section 4(c). The Corporation may not affect a redemption of portions of the Series B Preferred Stock outstanding without the consent of each holder of Series B Preferred Stock.

(b) Redemption Notice. At least 30 days prior to redemption, written notice shall be mailed, first class postage prepaid, to each holder of record (at the close of business on the business day next preceding the day on which notice is given) of the Series B Preferred Stock to be redeemed, at the address last shown on the records of the Corporation for such holder, notifying such holder of the redemption to be effected, specifying the number of shares to be redeemed from such holder, the redemption date, the redemption price, the place at which payment may be obtained and calling upon such holder to surrender to the Corporation, in the manner and at the place designated, his certificate or certificates representing the shares to be redeemed (the "Notice"). Upon receipt of the Notice, the holder may either convert the Series B Preferred Stock into Common Stock pursuant to the terms of Section 6. On or after the redemption date, each remaining holder of Series B Preferred Stock to be redeemed shall surrender to this Corporation the certificate or certificates representing such shares, in the manner and at the place designated in the Notice, and thereupon the redemption price of such shares shall be payable to the order of the person whose name appears on such certificate or certificates as the owner thereof and each surrendered certificate shall be cancelled.

(c) Redemption Date. From and after the redemption date, unless there shall have been a default in payment of the redemption price, all rights of the holders of shares of Series B Preferred Stock designated for redemption in the Notice as holders of Series B Preferred Stock shall cease with respect to such shares, and such shares shall not thereafter be transferred on the books of the Corporation or be deemed to be outstanding for any purpose whatsoever. The shares of Series B Preferred Stock not redeemed shall remain outstanding and entitled to all the rights and preferences provided herein.

5. Voting Rights

The holders Series B Preferred Shares shall have no voting rights as holders of Series B Preferred Shares until the shares are converted to shares of Common Stock, at which time the holders shall have the voting rights of holders of Common Stock.

6. Conversion.

The holders of the Series B Preferred Stock shall have conversion rights as follows (the "Conversion Rights"):

(a) Right to Convert. Each share of Series B Preferred Stock shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share but prior to December 31, 2005, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing 1,000 by the Series B Conversion Price applicable to such share, determined as hereinafter provided, in effect on the date the certificate is surrendered for conversion. The price at which shares of Common Stock shall be deliverable upon conversion of shares of the Series B Preferred Stock (the "Series B Conversion Price") shall initially be \$2.00 per share of Common Stock until and through December 31, 2002. Between January 1, 2003 through December 31, 2005, the Series B Conversion Price shall be 90 percent of the 20 tracking day average closing price of the Common Stock prior to the date the certificate is surrendered for conversion. If the Common Stock is not listed on the NASDAQ Market or the OTC Bulletin Board, the price shall be determined by a third party appraisal. At no time will the Series B Conversion Price be less than \$1.50 per share of Common Stock.

(b) Automatic Conversion. Each share of Series B Preferred Stock shall automatically be converted into shares of Common Stock at the then Series B Conversion Price on December 31, 2005.

(c) Mechanics of Conversion. (i) Before any holder of Series B Preferred Stock shall be entitled to convert into shares of Common Stock, he shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Corporation or of any transfer agent for such stock, and shall give written notice to the Corporation at such office that he elects to convert the same and shall state names in which he wishes the certificate for shares of Common Stock to be issued. The Corporation shall, as soon as practicable thereafter, issue and deliver to such holder of Series B Preferred Stock, a certificate for the number of shares of Common Stock to which he shall be entitled. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of surrender of the shares of Series B Preferred Stock to be converted, and the person entitled to receive the shares of Common Stock issuable, upon such conversion shall be treated for all purposes as the record holder of such shares of Common Stock on such date.

(d) Adjustments for Reclassification and Reorganization. If the Common Stock issuable upon conversion of the Series B Preferred Stock is changed into a different number of shares or any other class or classes of stock, whether by capital reorganization, reclassification or

otherwise, the Series B Conversion Price then in effect shall, concurrently with the effectiveness of such reorganization or reclassification, be proportionately adjusted so that the Series B Preferred Stock shall be convertible into, in lieu of the number of shares of Common Stock which the holders would otherwise have been entitled to receive, a number of shares of such other stock equivalent to the number of shares of Common Stock that would have been subject to receipt by the holders upon conversion of the Series B Preferred Stock immediately before that change.

(e) Reservation of Stock Issuable Upon Conversion. The Corporation shall at all times reserve and keep available out of its authorized but unissued shares Common Stock, solely for the purpose of effecting the conversion of the shares of the Series B Preferred Stock, such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of the Series B Preferred Stock; and if at any time the number of authorized but unissued shares of Common Stock is not sufficient to effect the conversion of all then outstanding shares of the Series B Preferred Stock, the Corporation will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purpose, including, without limitation, engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to the Certificate of Incorporation.

(f) Fractional Shares. No fractional share shall be issued upon the conversion of any share or shares of Series B Preferred Stock. If the conversion would result in the issuance of a fraction of a share of Common Stock, the Corporation shall, in lieu of issuing any fractional share, pay the holder otherwise entitled to such fraction a sum in cash equal to the fair market value of such fraction on the date of conversion (as determined in good faith by the Board of Directors.)

7. Notices.

Any notice required by these provisions to be given to the holders of shares of Series B Preferred Stock shall be deemed given two days following the date deposited in the United States mail, postage prepaid, or one date following shipment by nationally recognized overnight courier or immediately if sent by facsimile or delivered personally by hand and addressed to each holder of record at such holder's address or facsimile number appearing in the records of the Corporation.

8. Regulation S.

Neither the Corporation nor any authorized agent acting on its behalf will register any transfer of the Series B Preferred Stock thereof not made in compliance with Regulation S under the Securities Act of 1933 or pursuant to registration or another available exemption under such Act.

This Certificate of Designation is executed as of this 27th day of February, 2001.

BIGMAR, INC.

/s/ John G. Tramontana

By: John G. Tramontana, Chief Executive Officer